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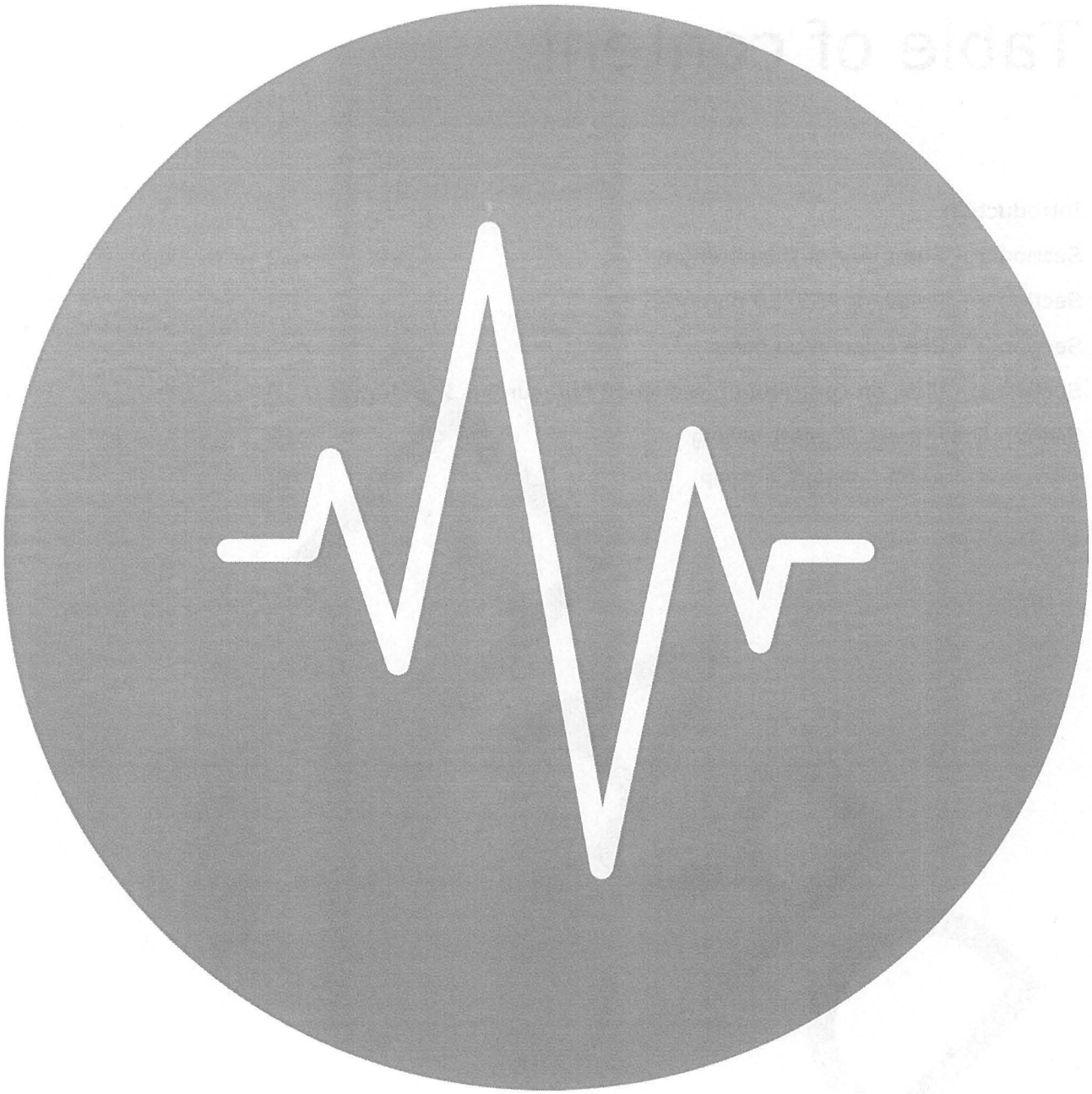

Asset ceiling consideration – Ontario Teachers' Pension Plan (OTPP)

Office of the Provincial Controller Division (OPCD)

August 12, 2016

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Introduction

In preparation of the Province of Ontario Financial statements, the OPCD has retained Deloitte to provide support in pension accounting advice. The present document is prepared in relation to the determination of the application of asset ceiling and valuation allowance specifically to the Ontario Teachers' Pension Plan (OTPP).

The relevant accounting standards to use in our analysis is Public sector accounting standard PS3250 on post-employment benefits.

The document will cover the following elements:

- Summary of the situation;
- Overview of the accounting paragraphs that apply to this and the explanation;
- Review of the considerations that go into the asset ceiling test and the Expected Future Benefit (EFB) calculation;
- Review of the employer access to future contribution reduction or surplus withdrawal;
- Conclusion on the impact for the Government Financial statements.

We are available to discuss the content of this document.

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Section 1 – Summary of the situation

The OPCD in preparation of the Ontario Financial statements is looking for support in addressing the asset ceiling calculation for the OTPP.

Here are a few facts obtained from discussion / documentation around the OTPP and its accounting:

- The plan is covered by its own legislation, the Teachers' Pension Act
- Most recent funding report was prepared at January 1, 2015 with contributions set for 2015, 2016 and 2017
- The plan is accounted for using Joint defined accounting provisions of the standards and the government portion of the plan is determined at 50% of the overall plan, this reflects the 50/50 sharing principle underlying the OTPP
- The total accounting service accrual (service cost) is about $2.9B per year
- The recent accounting surplus measure for the portion of the government is around $20B, using a market-related value of assets (smoothed assets). The surplus using fair value measure of assets is about $28B.

The present document will cover the following key questions:

- What are the key considerations that go into the asset ceiling determination?
- What is the impact of an asset ceiling, when applicable?
- Is there an asset ceiling impact for OTPP and if so how is it calculated?

Below is a list of documents and references used in our analysis.

List of documents
Funding management policy (FMP) of OTPP
Asset ceiling documentation from Allan Shapira (Aon) dated August 2, 2016
Actuarial valuation report of OTPP as at January 1, 2015 – funding purposes
Accounting standards PS3250 on post-employment benefits
Discussions with OPCD and Allan Shapira (incl. overview of some results used in this document) including a summary note prepared by Nadine Petsche at OPCD (August 4, 2016)

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Section 2 – Relevant PS3250 paragraphs

Below are some extracts from the PS3250 for limit on carrying amount of accrued benefit asset (the asset ceiling test) and the joint defined benefit which are relevant to the analysis and position taken for financial statements preparation. Note that the underlined are from us. We have added a paragraph on gains and losses to support an explanation of the impact of an asset ceiling position (see Section 5).

Limit on the carrying amount of an accrued benefit asset

.050 *An accrued benefit asset should be presented on a government's statement of financial position net of any valuation allowance. When a defined benefit plan gives rise to an accrued benefit asset, a government should recognize a valuation allowance for any excess of the adjusted benefit asset over the expected future benefit. A change in valuation allowance should be recognized in the statement of operations for the period in which the change occurs.* [SEPT. 2001]

.051 A government with a defined benefit plan may have an accrued benefit asset for accounting purposes. An accrued benefit asset arises when the government's total contributions to the plan, including interest earned thereon, are greater than the retirement benefit expense recognized since the start of the plan. Contributions reflect the funding objectives of the plan. The benefit expense reflects the accounting objectives and may differ for a number of reasons, including the fact that actuarial gains and losses are deferred and amortized in future periods.

.052 A government may benefit from an accrued benefit asset either by withdrawing surplus assets or by taking a contribution holiday or receiving a refund of contributions. The accrued benefit asset may become impaired when there is a plan surplus for accounting purposes that the government is not entitled to benefit from fully. For example, there may be a regulatory moratorium on pension surplus withdrawals or uncertainties as to a government's legal right to use a plan's accounting surplus.

.053 To determine the extent to which an accrued benefit asset may be impaired, the government first determines the adjusted benefit asset. The adjusted benefit asset is the accrued benefit asset less net unamortized actuarial losses (determined on a basis using market value of assets).

.054 The adjusted benefit asset is then compared to the expected future benefit. When the expected future benefit exceeds the adjusted benefit asset, the accrued benefit asset is not impaired and, accordingly, no valuation allowance is required. The chart included as Appendix A to this Section is intended to set out the relationship between the various defined terms.

.055 The objective of the standard in paragraph PS 3250.050 is to limit a government's accrued benefit asset to the amount it can realize in the future. The expected future benefit is a calculated amount representing the benefit a government expects to realize from a plan surplus. An expected future benefit includes any withdrawable surplus or reduction in future contributions.

.056 A government determines its expected future benefit as the sum of:

a. the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and
b. the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

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.057 A government's expected future accruals for service for the current number of active employees are determined on a basis consistent with that used to determine its accrued benefit obligation. These expected future accruals for service, less required employee contributions and minimum contributions the government is required to make regardless of any surplus, are then discounted back to the current period to determine the present value. The interest rate used to calculate this present value is the expected rate of return on plan assets used to determine the benefit expense in the period.

.058 When administration expenses are paid by the plan and included in the normal cost calculation, a best estimate of the future administration expense is included in the expected future accruals for service. When administration expenses are paid by the plan and not included in the normal cost calculation, the rate of return on plan assets is adjusted to reflect the deduction of the administrative expenses.

.059 A key factor in determining a government's expected future benefit from a defined benefit plan with a plan surplus for accounting purposes is the ability of the government to withdraw assets from the plan. The expected future benefit includes amounts to which a government has a legally enforceable right of withdrawal. It excludes any withdrawable plan surplus a government is currently required, or intends, to allocate to employees. A government may not anticipate obtaining a legally enforceable right to withdraw a portion of a plan surplus to which it is not currently entitled, whether on the basis of precedent or otherwise. Accordingly, when withdrawal of plan surplus requires the approval of employees or an appropriate regulatory authority or a court of law, a government excludes any amount subject to this restriction from its expected future benefit until such approval has been obtained. A change in the allocation of surplus between a government and its employees is incorporated into the calculation of the expected future benefit only when it has been agreed to and, when required, approved by the appropriate regulatory authorities.

Joint defined benefit plans

.079 Governments may participate jointly in defined benefit plans where the government shares the risks and rewards jointly with plan participants, represented by a sponsor or sponsors. Joint defined benefit plans are governed by a formal agreement between the sponsors, which establishes that the sponsors have shared control over the plan. A governing board is generally appointed by the joint sponsors with equal representation and a mutually agreed-upon chair.

.080 A government would consider the characteristics of the plan to determine whether it meets the definition of a joint defined benefit plan. In a joint defined benefit plan, funding contributions are shared mutually between the government and the plan members. The sponsors have control over decisions related to the administration of the plan and the level of benefits and contributions on an ongoing basis based on the terms of the contractual agreement. The sponsors share, on an equitable basis, the significant risks associated with the benefit plan. Risk would not be considered to be equitably shared in an arrangement where the government and the joint sponsors fund the plan equally but where the government retains the full risk of the accrued benefit obligation. If the government retains the residual risks it is unlikely that the plan meets the definition of a joint defined benefit plan.

.081 *When a government participates in a joint defined benefit plan, the government's risk is limited to its portion of the plan. The government should account for its portion of the plan in accordance with the standards for defined benefit plans.* [SEPT. 2001]

.082 A government may convert an existing defined benefit plan for which it is the sole sponsor to a joint defined benefit plan where the risks and benefits are shared. When converting to a joint plan, a government would consider whether there are any special accounting issues that arise, including whether the predecessor plan has been settled or partially settled and/or curtailed or partially curtailed. In assessing such issues a government would have regard to its specific circumstances and the terms of the joint defined benefit plan.

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Actuarial gains and losses

.061 Actuarial gains and losses would be amortized over a reasonable future period because of their tentative nature and because further adjustments will likely be required in the future. A reasonable future period is the expected average remaining service life of the related employee group. Amortization may commence in the period following the determination of the adjustment. Actuarial gains and losses would be determined on a market value basis or a basis adjusted to market value, consistent with paragraph PS 3250.035.

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Section 3 – EFB calculation basis

PS3250.053 refers to the adjusted benefit asset. This is the amount on which the asset ceiling test applies (PS3250.054) by comparing it to the Expected future benefit (EFB). In most cases (like the current OTPP) when there are unamortized losses, the adjusted benefit asset effectively equals the accounting surplus. Therefore, we do end up testing the surplus compared to the EFB. Further, PS3250.053 refers to market value of assets rather than market-related value of assets that allow for some smoothing of assets gains and losses (which is used under OTPP).

The above are basic considerations of the asset ceiling test and mostly straight-forward in application. The most challenging part of the asset ceiling test is identifying the basis to value the EFB under PS3250.056. There are various elements to be considered in this calculation that will determine the amount to use. The definition of EFB incorporates key components that need some analysis. The present section deals with these components.

Definition of EFB

.056 A government determines its expected future benefit as the sum of:

a. the present value of its expected future accruals for service for the current number of active employees, less the present value of required employee contributions and minimum contributions the government is required to make regardless of any surplus; and
b. the amount of the plan surplus that can be withdrawn in accordance with the existing plan and any applicable laws and regulations.

Key components of the definition are:

- present value calculation
- future service accruals
- current number of active employees
- required employee contributions
- minimum contributions the government is required to make regardless of any surplus
- amount of surplus that can be withdrawn

Current number of employees – Open group notion

Under the definition of the EFB, it is indicated that the present value of future accruals for service is to be based on the current number of active employees. The application of this particular element of the calculation has generally been seen in practice as assuming that the plan would have a perpetuity of future accruals since active employees terminating or retiring would be replaced by new active employees, keeping the number equal to the current population. Unless there is signal or expectation of reduction in population (ex if the plan was closed to new entrants or if the employer is going through downsizing), this open group notion has been observed in practice.

Future service accruals - Projection of salary

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Under the definition of the EFB, we are performing a present value calculation and therefore this assumes that the underlying components of the calculation are projected into the future (future accruals and contributions). In performing such projection, an increase in salary based on the accounting assumption for salary increase would be applicable.

Present value – discounting effect

Calculation of a present value requires the determination of an interest rate to use. Under PS3250.057, the interest rate used is determined in reference to the expected rate of return on plan assets used to determine the benefit expense.

Future service accruals and required employee contributions - Joint Defined Benefit accounting

Since the OTPP is accounted for based on joint defined benefit provisions of the accounting standards, the asset ceiling test needs to be performed based on the government's portion of the plan (par. PS3250.081). Looking at the EFB definition, it means that the calculation of PS3250.056 a) needs to be somewhat adjusted. The future accruals must reflect only the employer share (50% of the total accruals) and no employee contributions are to be considered in the calculation (since this relates to the employee portion of the plan).

Practice seen on PS3250 EFB calculation – Largely liberal application

Historically, in practice, we have seen very liberal application of the PS3250 asset ceiling calculation. The EFB has generally been determined as the present value of all future employer service accruals (perpetuity) considering the increase of salary factored into the calculation. One simple way of obtaining that value is based on the following calculation:

- Determine the total accrual for service for one year
- Determine the accrual for service for the employer for one year (i.e. total accrual net of the employee portion)
- Calculate the perpetuity of increasing service cost as follows : accrual of service for employer / (expected return on plan assets – salary increase)
- To illustrate this for OTPP, we did get the following information
  - Total service accrual = $2.9B
  - Employer service accrual (assuming 50% share) = $2.9B / 2 = $1.45B
  - Expected return on plan assets = 6.25%
  - Salary increase = 3% (excluding merit/promotional scale for simplicity)
  - Perpetuity = $1.45B / (6.25% - 3%) = $44.6B

Minimum employer contributions required regadless of any surplus - New considerations in EFB calculation

There has been in recent years more questions around the meaning of the EFB definition and mostly around what the last part of PS3250.056 a) means. The terminology used of "minimum employer contribution required regardless of any surplus" has been discussed and there have been different views on what this represents.

One view (View 1) focus on whether there is a minimum employer contribution under the plan / legislation that is required even if a surplus would be present. For instance, a plan contribution could be defined as always being at least of 5% of salaries. In such circumstances, there would be a contribution requirement to a minimum level for every year even when surplus is present. If no such minimum exists and there is a possibility to get to 0% contribution, for instance in surplus position, then there would be

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no minimum contribution required "regardless of any surplus". This view leads to no reduction in the EFB calculation in cases where no minimum % contribution exists in the plan provisions.

Another view (View 2) is that minimum required contribution must at least consider the effect of the most recent funding valuation report. This report determines what contribution requirement applies to the current period of the valuation report and until a new report is completed. For instance, if the employer needs to contribute for the next 3 years a certain amount of contribution (service cost and special contribution for deficit), then this represents the minimum required employer contribution regardless of any surplus. As an example, under the most recent funding report of the OTPP (Jan 1, 2015) this amount is about $1.7B per year for 2015, 2016 and 2017 which includes service cost and also special contributions. Contributions from 2018 will be determined based on a new valuation report and therefore are unknown as of now (no minimum required contribution on the valuation date for years beyond 2017).

Finally, a more extreme view (View 3) could be to actually prepare detailed future projections of funding valuation results on either a deterministic calculation with identification of the actual year(s) when funding surplus would be present or a stochastic calculation to identify what is the probability of occurrence of funding surplus in future years and the outcome in those cases for contribution reduction/surplus withdrawal. Such an approach would need the inclusion of some many complex assumptions and the preparation of a high volume of calculations.

Based on the definition of PS3250 EFB and considering the practice observed, we find that View 3 does not appear to be in line with PS3250 and its spirit. On the other hand, we see that View 2 appears to be more in line with the current trends.

Amount of surplus that can be withdrawn and contribution reduction availability – OTPP plan characteristics

One element of importance (PS3250.052 and PS3250.059) is to identify whether the employer does have access to the surplus based on legislation and plan characteristics. Is there really some way the government can either withdraw surplus from the plan or reduce future contributions through contribution holiday. The OTPP does have its own Legislation (Teachers' Pension Act) and a Funding policy (Funding Management Policy – FMP) agreed between employer / employees to determine whether and how surplus can be used under the plan. The FMP provides insight on this significant element and is dealt with in the next section.

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Section 4 – View on contribution reduction and surplus withdrawal

Funding Management Policy (FMP)

The FMP is a document agreed between employer / employees that identifies how the plan is to be funded and specifically how it will deal with deficit and surplus situations. We are particularly interested to identify whether in surplus position the government has access to surplus withdrawal or contribution reduction.

The idea of the plan is that the employer contribution will match the employees' contribution. The use of Joint Defined benefit accounting under PS3250 reflects that general principle underlying the nature of the plan by applying a 50/50 share.

The plan also has provisions that make post-retirement indexing for some service period (post-2009) conditional on the plan financial situation. Should the indexing not be provided fully (100% CPI), some portion (or all) of the indexing amount not provided to the retirees (called foregone inflation) will lead to additional employer contribution in that year. This also reflects the 50 / 50 principle of the plan in that on the employee side, a benefit is not fully provided (less than 100% indexing for retirees) and on the employer side an additional contribution is paid. In similar way, if and when benefits would be increased to the employees, the employer would also get a similar benefit in value (contribution reduction and/or surplus withdrawal).

We also understand that the FMP will have first use of surplus to reduce contributions to the "basic contribution level" which is the 2012 value (10.4% of salary below YMPE and 12.0% above YMPE) and / or increase benefit to restore any foregone inflation. The Partners need to agree on the actions that will be taken. We also note that for the employer, should the contribution rate already be at the basic rate and a surplus is present, surplus withdrawal and / or further contribution reduction is also possible action to be taken.

In discussing with Allan Shapira (Aon), we understand that the FMP has five funding zones:

- The middle zone is the Fully Funded zone under which base benefits and contributions are maintained. In this zone, the plan is adequately funded to provide base benefits (including indexation at 100% of CPI) supported by the base contributions. Given the volatility of market factors and the numerous assumptions in the funding valuation, "fully funded" is considered a range.
- There are two zones below the Fully Funded zone that address the treatment of deficits (through additional contributions and / or reduction of benefits).
- There are two zones above the Fully Funded zone that address the treatment of surpluses. The first zone is the Temporary Plan Improvement zone where contributions can be temporarily reduced, a surplus distribution can be made on a temporary basis and/or benefits can be temporarily improved (as long as it does not create a long term cost). If the surplus reaches a

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specified level, the next zone, the Permanent Plan Improvement zone, provides for permanent changes to contribution rates and/or benefits.

Under the FMP, a surplus distribution or a benefit improvement can only be made if the Partners have entered into a written agreement governing the manner in which employer contributions will be adjusted to offset any surplus distribution or changes in benefits that are reflected in the obligation value through benefit changes.

As illustrated in the latter zones above, the FMP considers that surplus situations and actions taken can be of permanent nature but also temporary nature. We understand that the inclusion of temporary use of the surplus has the effect of having more likelihood of years of surplus usage than if only permanent approach was possible.

Based on the information received, we note that the accounting obligation calculated for the financial statements, and the accounting surplus resulting from that obligation value, is already including an assumption that 100% CPI is provided. Therefore, the accounting surplus is already based on fully restored benefits and full indexing. Any remaining surplus would therefore be available from the employer side to reduce the contribution level or withdraw surplus.

We also note that the accounting valuation is based on best estimate assumptions and that the surplus amount determined by that calculation represents what is the most likely outcome, considering that assumptions do realize in the future. As such, the amount for the employer portion does represent a realistic potential value to the government in contribution reduction and / or surplus withdrawal. We do not know when the actual event would take place and whether it would be through contribution reduction or surplus withdrawal, but we know that this represents a realistic economic benefit.

Section 3.06 of the FMP does identify the steps of restoration of indexing and also identifies under 3.06 e) the contribution reduction action that can apply. We note again that the accounting obligation measure already includes the 100% CPI indexing and therefore covers the escalated adjustements defined in 3.06.

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Section 3.06 *Application of Restoration Basis Excess*: For purposes of clarity, excesses identified pursuant to Section 3.05 shall be applied in the following order, provided that the partners reserve the right to reconsider such application having regard to the contribution rate and benefits then in effect, prevailing economic circumstances and other relevant factors:

(a) *Bring Escalated Adjustments to 50% for Post-2013 Service*: to provide escalated adjustments up to 50% of the CPI adjustment in respect of service accrued after 2013 for the period covered by the valuation, and assumed thereafter at the same rate;

(b) *Bring Escalated Adjustments to 100%*: to provide escalated adjustments up to 100% of the CPI adjustment for the period covered by the valuation, and assumed thereafter at the same rate;

(c) *Restore Escalated Adjustments for Post-2013 Years*: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2013, to the current accumulated adjustment ratio for the period from 2010 to 2013, beginning with the first year in which current escalated adjustments were less than 50% of the run-rate escalated adjustments;

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(d) *Restore Escalated Adjustments for Post-2009 Years*: to provide escalated adjustments to increase, to the extent possible, the current accumulated adjustment ratio for each year after 2009 to the run-rate accumulated adjustment ratio, beginning with the first year in which current escalated adjustments were less than run-rate escalated adjustments;

(e) *Provide Benefit Increases or Contribution Rate Reductions*: to provide the following:

(i) an increase in benefits, where the present value of current benefits is less than the present value of run-rate benefits,

(ii) a reduction in contribution rates, where the present value of current contributions exceeds the present value of basic contributions, or

(iii) a combination of (i) and (ii).

(Last amended May 27, 2015 – Effective March 6, 2015)

So in summary, here are the key factors of the FMP and OTPP plan characteristics that support the government Expected future benefit coming from surplus withdrawal and contribution reduction:

- The plan nature is defined to be a 50 / 50 share between employees and employer
- Looking at the FMP, this principle applies to bad news and good news, hence for deficit and surplus situations
- The employer can benefit from surplus withdrawal and contribution reduction
- The surplus situations could be dealt with permanent and temporary changes, increasing the likelihood of surplus application
- The accounting valuation currently includes a 100% CPI indexing, hence the resulting accounting surplus to the employer portion has already fully restored benefits considered
- Accounting valuation uses best estimate assumptions and therefore the resulting surplus is a realistic value

Previous contribution holiday experience (TO BE COMPLETED IF APPLICABLE)

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Section 5 – Impact of asset ceiling

We have identified the key considerations that go into the determination of the inputs for the asset ceiling calculation and specifically the Expected future benefit. In the present section, we cover the treatment of an asset ceiling impact and discuss the volatile nature of the financial statements when such ceiling applies. This will highlight the concerns that may arise if and when an asset ceiling impact would apply to a sponsored pension plan.

Impact of valuation allowance change in year vs expense

When an asset ceiling applies, a valuation allowance is created (PS3250.050). When there is an increase (reduction) in valuation allowance from year to year, the change is recognize as an expense (income) in the year of the change. Therefore, it has an immediate impact, no deferral mechanism.

To illustrate how this can be significant, we could have a situation where the asset return in the last month of a fiscal year is very good and creates a surplus position (or improve a surplus position). If the asset ceiling test needs a valuation allowance to be applied, the change in the last month could lead in an expense that was unexpected and that can be of sizeable amount. Therefore, in any case of asset ceiling impact, the immediate recognition nature of an unexpected amount will affect the financial statements of the employer. We note that the outcome is also non intuitive since the valuation allowance in this example creates an expense whereas the plan did experience good news by good asset returns. In years of bad news (ex losses on asset), the contrary would apply, leading to reduction in valuation allowance (creating an income) whereas the plan went through bad news.

Mismatch of valuation allowance and treatment of gains and losses

To further illustrate the complication of asset ceiling under PS3250, we note that the elements that usually create the valuation allowance change in a year are usually treated in a much different manner. As illustrated in the paragraph above, valuation allowance can be created by an unexpected event that comes up late in the year, such as good asset return in a last month. This good news would create a gain generating (or increasing) a surplus. Under the PS3250.061, the good news (actuarial gains) must be deferred and amortized over future years, usually over what we call Expected average remaining service life of active employees (EARSL).

As an illustration, if we assume a gain on asset return creating a valuation allowance of $3B and an EARSL of 15 years, we would have the following mismatch of recognition: an expense would be created in the year for the $3B change in valuation allowance while the gains would be deferred and amortized over the next 15 years as income at a rate of $3B / 15 years = $200M per year. This shows the drastic effect it has on the timing recognition.

An old version of IAS19 - the IFRS standard that applies to public companies - that also had deferral and amortization of gains and losses, had provisions that would address such situation and "match" the recognition of gains and losses with the effect of valuation allowance. In our example, the gains of $3B on asset that creating the ceiling effect would be reflected immediately in income to net the effect of the valuation allowance $3B expense. The resulting effect would be nil. The IAS19 standard did recognize that this was needed to address a particular situation. PS3250 does not include such provision and there

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is no option for using immediate recognition of gains and losses in this circumstance or other cases. This is a flaw of the standard.

This does provide insight on what may happen if and when a pension plan might be affected by a valuation allowance. Applying some "arbitrary" limit on the EFB calculation for financial statements based on judgment rather than plan characteristics and facts may be seen as a prudent approach to limit asset on the balance sheet but in fact this can lead to very undesirable results as shown in this example.

Balanced budget and valuation allowance changes

The 2 elements above do show the complexity that arise in financial statements when valuation allowance is created under PS3250. This can bring significant volatility in results in unexpected manner and also lead to mismatch of results. This also creates difficulties in explaining why an expense (or income) is created in a year of good (or bad) news. This is non intuitive and is only a reflection of the mismatch in timing recognition.

In a balanced budget environment, this is difficult to manage. As illustrated, an old version of IAS19 with a similar situation did have provisions to deal with this but PS3250 does not. By experience, we have seen the Quebec municipality Ministry provide the municipalities with tools to prepare a GAAP to fiscal financial results reconciliation that would address this situation. The idea of the mechanism basically lead to applying a similar approach of old IAS19 to the PS3250 accounting. On a GAAP basis the results need to be in line with PS3250 flawed approach but under the fiscal basis used for balanced budget purposes, the mechanism of old IAS19 would be used, maintaining a dual accounting basis. In doing this, the financial statements for fiscal use (balanced budget) would be adjusted for the problem incurred by the asset ceiling flaw seen in PS3250. Should the Government be affected by asset ceiling for a sponsored pension plan, this approach might be analyzed to determine if it could be applied to alleviate the situation. This should not be seen as creative accounting to balance budget but rather a reasonable fix to address a flaw of PS3250, a situation that was not contemplated by the standard.

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Section 6 – Asset ceiling for OTPP

Considering the factors illustrated in the Section 4 that analyse the FMP and surplus application, we find that an accounting asset position in the financial statements to be supported by the FMP and OTPP plan characteristics. Therefore, we do not see why the asset position should be reduced by any valuation allowance based on these factors, unless other information is available. We understand that through the sharing principle of the OTPP nature, the Government does have access to surplus and hence does have an economic benefit. We do not know when the benefit will materialize and what form it will take but it is of realistic economic value.

We also note that applying some arbitrary limit on adjusted benefit asset that would be based on some judgment not supported by the plan provisions would likely create some volatility in results that may be difficult to address in balanced budget environment. We have explained under Section 5 the effect of this on the year expense and also the mismatch of treatment when this is created because of gains and losses. Change in valuation allowance (asset ceiling) is recognized in the year it occurs while the gains and losses that affect the ceiling test is amortized over EARSL. This is a flaw of PS3250 that mismatches recognition. It also becomes difficult to explain since a gain on asset in last month of a year (good news) may end up creating an asset ceiling impact (expense – bad news) while the good news is amortized over future years. In perspective of working with balanced budget, this is difficult to handle. The Government may look at whether this situation that may occur for other sponsored plans that might be affected by a ceiling would require some special approach to be applied. We have identified in Section 5 an approach that has been taken by the Quebec municipal Ministry to address this flaw in an environment of balanced budget for municipalities.

That being said, it is very important that the amount determined represents what the accounting defines as the best estimate. The selection of assumptions to prepare the accounting valuation is therefore significant to ensure that the surplus calculated is acceptable. The presumption is that those assumptions were selected by the Government as best estimates just as the accounting standards require and therefore the surplus determined is a realistic value of what benefit the Government may realize in the future through surplus withdrawal/contribution reduction. Should some assumptions be considered "optimistic", this may imply a higher surplus than what is likely to occur.

Also, should the characteristics of the plan or the FMP parameters change and affect the access of the government to the surplus, the conclusion above may need to be revised.

In particular, the Government needs to be comfortable that the view on FMP application that we have described under Section 4 is the understanding of the Governement and the interested parties to the OTPP. The view is basically that any surplus identified to the Government portion would be used to its own benefit and not reverted to increasing benefits to the members (either through historic practice or internal policy).

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MEETING SUMMARY

TOPIC **OAG/Deloitte LLP/OPCD Discussion on Pension Asset Ceiling**

MEETING DATE(S): **September 21, 2016, 4:15 – 6:00 PM**

LOCATION: **7 Queen's Park,**
2nd Floor, Frost South, ADM Boardroom

ATTENDEES: Cindy Veinot (OPCD)
Nadine Petsche (OPCD)
Kerry Danyluk (Deloitte LLP)
Matthew Colley (Deloitte LLP)

Bonnie Lysyk (OAG)
Susan Klein (OAG)
Bill Pelow (OAG)
David Catarino (OAG)
Audelyn Budihardjo (OAG)
Benjamin Leung (OAG)

Note: This summary follows the order of the discussion between the Office of the Controller General, Deloitte LLP (external accounting advisors to OPCD), and staff of the Office of the Auditor General as at September 22, 2016.

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Discussion Highlights

Remarks by Auditor General/OAG

- Stated that she was here just to listen to what Deloitte has concluded
- In terms of reasonable expectations, a key here is whether the $4.3B has been looked at. Wanted to get additional details on the calculation of this amount
- Referenced the OTPP's financial statements and different result vs. surplus. (OPCD and Deloitte LLP pointed out that the OTPP's financial statements are prepared on a different basis – IFRS- and use different assumptions. Discussed the fact that the $4.3M in value from the recent decision regarding indexation was calculated on a funding basis. Bonnie suggested that we putting forth a position that the funding source as the same value that should be reported for accounting purposes (to be used as a proxy for the asset value). Delotitte reiterated that it would not be suggesting a value in its opinion letter, and reminded that AG that for funding purposes, values are typically more conservative. OPCD remarked that the AG's comments did not reflect our position or what we were putting forth which is that no valuation allowance is necessary.
- The AG commented that the buildup of the pension asset is because of a difference between the discount rates used between the Plan and the government. (see discussion above regarding purpose of discount rates.)
- The AG suggested that the government was following a different approach to discount rates than other governments which explained the difference between the OTPP's rates and the government. OPCD referenced research analysis that had been shared with the OAG which showed that ON's practice is consistent with most other Senior governments in Canada with regards to using management's best estimates on return, and that in fact, it is the OTPP which is an outlier in using a rate 'other than the sponsor's' rate (management's best estimate of return) for its financial statements. It is this difference in OTPP's practice which accounts for the big difference between what the OTPP reports and what ON reports.
- The AG said that government would have to be comfortable commenting that they have entitlement to the $10.6 B of the teacher's retirement fund (that the asset is supposed to mean something).
- The OAG commented, in relation to the $4.3B benefit, that the accounting valuation doesn't respond at all because the f/s reflect 100% indexation (w.r.t. share the pain).
- The AG asked Deloitte to explain how the pension asset met the definition of an asset. Deloitte responded that there is no need to look to PS1000, since PS 3250 was developed within PSAB's conceptual framework which recognizes assets.
- The AG commented that she doesn't feel that uncertainty is ok, and that there were no agreements in place as at March 31/16. She observed that the asset was increased due to differences between the OTPP's and ON's rates. It is an accounting issue – PSAB allows different rates, but PS3250 requires that you have to see 'what is behind the asset'. It is more than just about applying PS 3250.
- The AG mentioned the BC example, stating that it was not a different situation and that it was the same scenario. She also mentioned a situation in QC where the assets had to be written down.
- The AG said that the value of the asset would need to be documented to really support the value. Would be looking for a document prepared between the OTF and the government (an agreement as at XXX), but none of this is documented to support the asset. Need documented, concrete evidence.
- Commented that the situation could change, and that the value could change not because nobody knew but because they didn't want to tell the AG until 3 months after year end.
- She suggested that perhaps Deloitte LLP didn't have all of the information that they needed to inform their decision, implying that the government was withholding information that they needed to complete a robust analysis.
- She said she appreciated that Deloitte LLP had looked at the situation, but wondered aloud why nothing

Discussion Highlights

is in front of her regarding the Province's position if we are all comfortable at out.

- The AG said that there may be some aspects worth looking at – an analytical review of the pension expense and how it impacts the fiscal plan. She said that for the most part that governments use the funds' rates of return. OPCD contradicted the AG's remarks and reminded the AG of our analysis which had been shared with her office which stated that the government's use the estimated rate of retune and the plans are for the most part using their sponsors' rates (that it is OTPP which is different)
- The AG said that there is a need to look behind the scenes at the negotiations between the OTF and the Ministry. She said that rates get tweaked with an objective of the impact on the bottom line, and that this is history on how it has played its way out over the past 10 years.
- She said that she would have expected a provincial position paper from the government.
- She feels that she has a strong position and doesn't agree with the position being taken.
- She wants proof for the asset value being reported.
- She referenced 2 faxes being received the night before a meeting that she was supposed to take into consideration w.r.t. asset values. (OPCD asked to clarify which faxes she was referring to. AG said it was the July and Aug docs related to the $4.3B, and that if we were suggesting that as the value of our asset that we should have provided more than that. OPCD reminded the AG that the docs were provided in response to a request she made in a telephone call earlier in the day but she didn't recall making such a request. OPCD also advised that the documents weren't intended to reflect our position of the asset value.)
- The AG commented on the Province's legal opinion (internal) as not being solid. Deloitte also stated that the legal letter will not confirm that there is a unilateral right to access an asset for surplus withdrawals (as would be relevant under para.059 only).
- The AG reiterated what she would need to see to report an asset is an 'irrevocable agreement in place as at March 31st'.
- She commented that the FMP is just an agreement to negotiate, and that negotiations are the next level up.
- She commented that there were also opportunities to improve our pension disclosure as the pension assets are current reported as a reduction to our pension liabilities.
- The AG made it clear that if the government would not change the financial statements in accordance with her view, that her messaging would be different than if we were to agree that the write-down of $10.6 B was an error. The AG reminded OPCD of her solution of recording the full impact to accumulated deficit over 15/16 and 16/17.
- With regards to her messaging, she said that she would say how over the past 10 years the government's deficits have been understated by XXX.
- The AG asked again how the asset would be used in the future. Her staff asked how the balance would be expected to decline in the future? They suggested that it will only continue to increase in value and that is why it has to be addressed. With regards to questions on future reduced contributions and the amount of share the pain contributions reflected in the actuarial valuations (~$1M), Deloitte clarified for the AG that it only relates to the teachers who have retired since 2009, and that prior to 2008 the plan was fully indexed. The previous negotiations lowered the benefit obligation to teachers but introduced the share the pain payments for funding purposes. For accounting purposes, the obligation has continued to be calculated at 100%.
- The AG asked how the taxpayers will ever see the benefit of the asset and suggested that the government's accounting was being used to manipulate the accounting, that it had grown from $200M to $10.6 B over the past 10 years.
- With regards to OPCD's observations that the AG's approach being susceptible to manipulation of the bottom line each year by having an agreement in place (which would be contrary to the spirit of the standard which addresses long term liabilities), the AG commented that she would be fine

Discussion Highlights

with that. She 'wouldn't disagree with being able to take the amount in the agreement back into revenue when there is an agreement at year end'. (Note that this would mean that the AG's approach would report the $4.3B indexation amount as revenue in 16/17).

- When asked for her position, Susan Klein, the Deputy AG, commented that she supports Bonnie's position on the mater, stating that they could take the intention of the standard as requiring that there is an agreement in place as at year end.

OPCD and Deloitte LLP comments

- Acknowledged and thanked the AG for her feedback on the Statement of Facts that Deloitte's had sent earlier in the week.
- Commented that certain parts of PS 3250 don't necessarily fit together
- Reiterated understanding that the AG was looking for there to be an agreement at year-end for which there was none
- With regards to the concept of a Joint Defined Benefit Plan(JDBP), it was observed that the rules were written for a liability situation (similar to the rest of the handbook) as opposed to assets, with a focus on risks
- Within PS 3250, the guidance says that JDBPs should follow the rest of the rules for defined benefit plans (e.g. para 50 – 59)
- With regards to the test for legal enforceability, Kerry does not see this as the applicable test when one is assessing benefits expected from contribution reductions
- Relevant parameters are para .052 which deals with uncertainties and the ability to use the surplus for either a contribution holiday or a reduction
- $4.6B from the funding basis. Using funding source to pay is the same.
- Kerry acknowledged that unlike a sole sourced plan, other parties do need to agree and in this regard, the TPA deals with matching contributions, but it is less clear about the applicability of surpluses. There is more judgement involved w.r.t. assessing uncertainty but not enough to suggest that there needs to be a full valuation allowance.
- With regards to testing for expectations and minimum contributions, there is a diversity of practice (whether should test every 3 years, every 15 years)
- Kerry pointed out that the government can negotiate a reduction and contemplates to share in surplus
- In terms of framing the thought process, it is important that the government feels good enough about the design of the plan to develop a reasonable expectation (para 55) to support the asset
- Kerry commented on the $10.6 B vs. $4.3 B (savings of what the government would have to pay anyway)
- Kerry commented that she wouldn't be able to take the rest to an opinion level
- Bonnie w.r.t. $4.3 billion – is it a reasonable explanation that ON could expect a benefit from the asset in its entirely over the fullness of time
- The funding position of the plan will determine how quickly the province will be able to utilize the asset. (once full indexation has been restored and out of the restoration zone). In terms of the $4.3B value for indexation – Cindy clarified for the AG that it represented the present value of payments you would have to make in the future (in perpetuity, until the end of the plan and the last teacher retires.) Deloitte clarified for the AG that the calculations are related to teachers retiring after 2009, and that the amounts could expect to get larger as more of those teachers retire. (This comment was made in response to the OAG's remarks regarding the amount reflected in the actuarial valuation where >$1M payments were made in relation to the fund in relation to indexation and questioning on how the $4.3B was calculated.)
- With regards to OTPP's financial statements, the AG
- With regards to the difference between a sole sponsored PP vs. a JDBP, with a SS plan, there was some discussion with regards to the expectation of reduced contributions. Reference was made to the Zones that would impact the ability of the government to expect a reduction in future contributions.

Discussion Highlights

- Deloitte restated its position that no agreement needs to be in place as at year end, but rather what is looked to is the framework that is in place and the reasonable expectation (looking at past history from the day that the plan has been in place. There is an expectation/contemplation that inflation protection will eventually be restored and that the government will benefit from reduced contributions.
- Deloitte and OPCD restated that the $4.3B that the AG kept referring to could NOT be crosswalked to the accounting numbers because it is calculated based on funding.
- OPCD commented that the $10.6B in reported asset value was also net of a $9 B unamortized gain balance which demonstrates that actual returns have actually exceeded management's best estimate of return.

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H.B. → Fiscal / not position

File: Fiscal 2016-17

L.S. → revenue ability to take to public, and we cannot wait

C.S. → revenue levels, need to find exactly palatable

S.O. → fed/prov'l full court press

This deck to Cabinet next week?

MMP:
Update on Fiscal Outlook & Path Forward

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Draft - September 14th, 2016 9:00 AM

Sept. 15, 1:30 p.m.

Confidential Advice to Cabinet – PRELIMINARY DRAFT

Purpose

Where the Fiscal Plan Is

- Provide a status update on:
  - Preliminary actual results for 2015-16; and
  - Fiscal outlook for 2016-17 to 2020-21, based on latest forecasts and assessment of risks.
- Provide a comparison of the current outlook to medium-term 2016 Budget targets and outline the current fiscal track out to 2020-21.

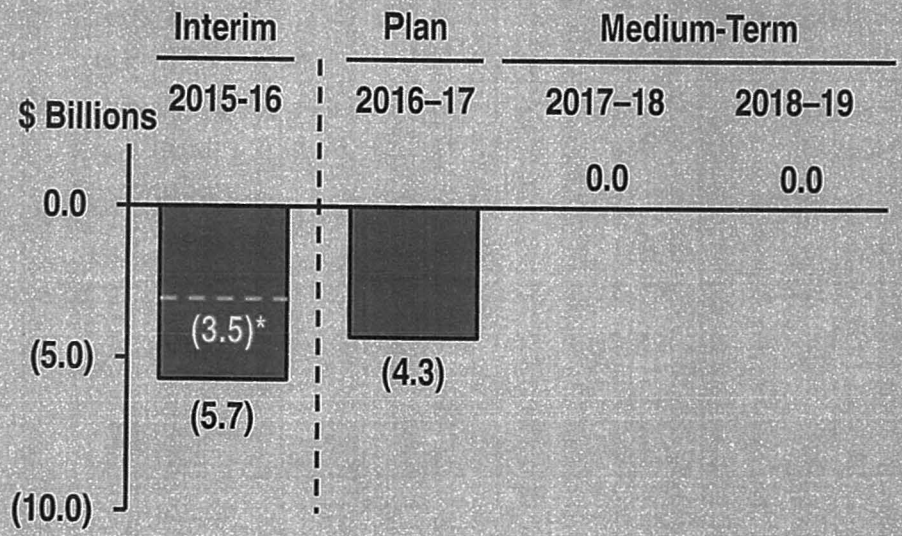
Path Forward & Potential Decisions

- Provide context for key fiscal decisions that will need to be addressed in the coming months.
- Foreshadow potential decisions required to support the government's overarching fiscal architecture, including for determining ministry expense allocations, and the fiscal strategies for the Fall Economic Statement and 2017 Document.

Context and 2016 Budget Recap

- The government laid out a plan in the 2010 Budget to balance the budget and is now only one year away from the deadline for delivering on that commitment.
- External stakeholders are looking for credible plans to balance the budget in 2017-18 and for the government to demonstrate fiscal sustainability by remaining balanced in future years.
- The 2016 Budget outlined a plan to deliver a balanced budget. Will need to take stock of progress on 2016 Budget assumptions, as delivering on these will be instrumental to the successful achievement of the plan.

2016 Budget Fiscal Targets



Net Debt-to-GDP

2016 Budget	39.6%	39.6%	38.9%	38.5%
Updated Outlook*	39.4%	39.5%	38.8%	38.4%

*Updated for preliminary actual results, revised 2015 nominal GDP.

Revenue Plan (2016-17 to 2018-19)

- **$3.4 billion** over three years in new, unconditional federal funding for infrastructure, home care and jobs and training
- **$4.2 billion** over three years in Cap-and-Trade proceeds
- **$1.3 billion** over three years in tax measures

Expense Plan (2016-17 to 2018-19)

- **$1.3 billion to $2.5 billion** per year in reduced expense from major transformation initiative plans (i.e. boulders)
- **Full Cap-and-Trade proceeds** available to fund both in-plan ($0.6 billion/year) and new climate change initiatives in 2017-18 and 2018-19
- **Contingency Funds** of $1.2 billion in 2016-17, growing to $3.5 billion in 2018-19, with portions notionally set-aside for compensation and Moving Ontario Forward

Reserve of $1.0 billion in 2016–17, $1.1 billion in 2017–18, $1.2 billion in 2018–19

2015-16 Public Accounts – Preliminary Actuals

The 2015-16 preliminary actuals are currently tracking to a deficit of $3.5 billion, before the potential impact of outstanding items.

2015-16 Preliminary Results

$ Billions	2014-15 Actual	2015 Budget	2015-16 Interim	2015-16 Preliminary Actuals	Change from 2015 Budget	Change from Interim
Revenue	**118.5**	**124.4**	**126.5**	**128.4**	**4.0**	**1.8**
Expense						
Program Expense	118.2	120.5	120.9	120.9	0.4	-
Interest on Debt	10.6	11.4	11.2	11.0	(0.4)	(0.2)
Total Expenses	**128.8**	**131.9**	**132.1**	**131.9**	**-**	**(0.2)**
Reserve	-	1.0	0.2	-	(1.0)	(0.2)
Surplus/(Deficit)	**(10.3)**	**(8.5)**	**(5.7)**	**(3.5)**	**5.0**	**2.2**

Numbers may not add due to rounding.

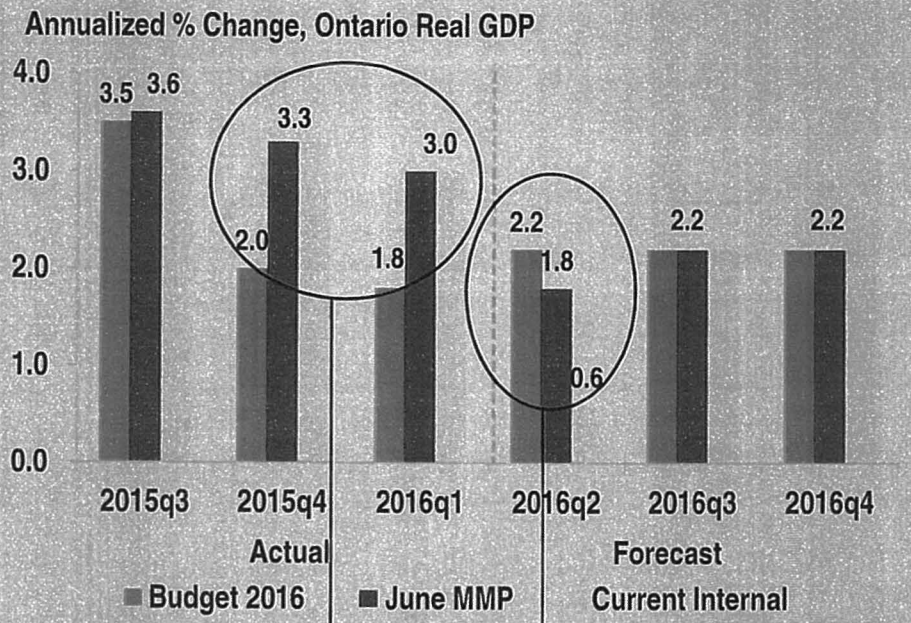
Outstanding Items

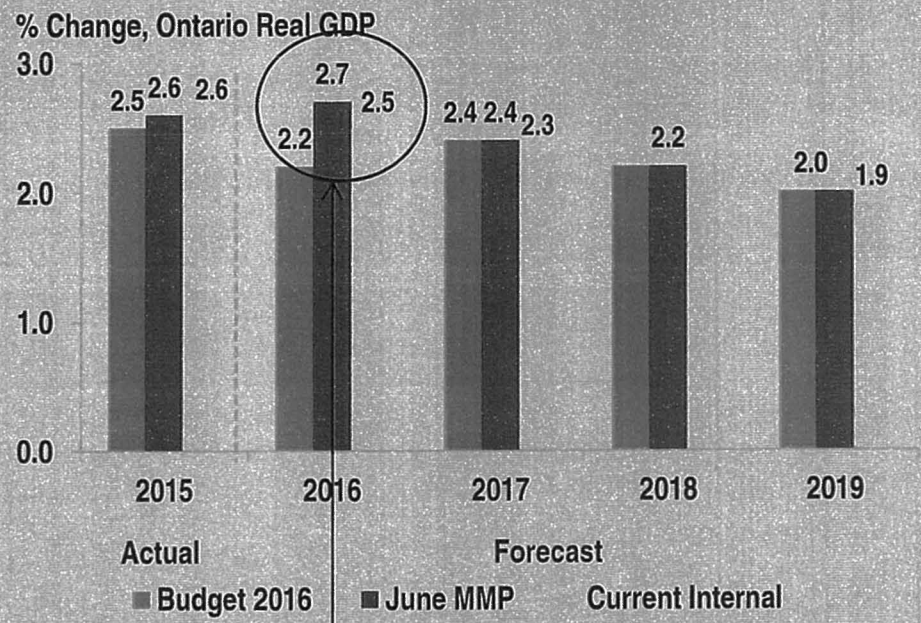
Discussions with the Auditor General regarding:

- OPG/H1 Basis of Reporting for 2015-16 Public Accounts
- HOOPP salary escalation rates
- Assessment of Pension Asset Ceiling risk

2016 Growth Remains Stronger than Budget

Ontario real GDP expected to rise 2.5% in 2016





Stronger 2015Q4 and 2016Q1 → Weaker 2016Q2 → Slightly stronger 2016 growth

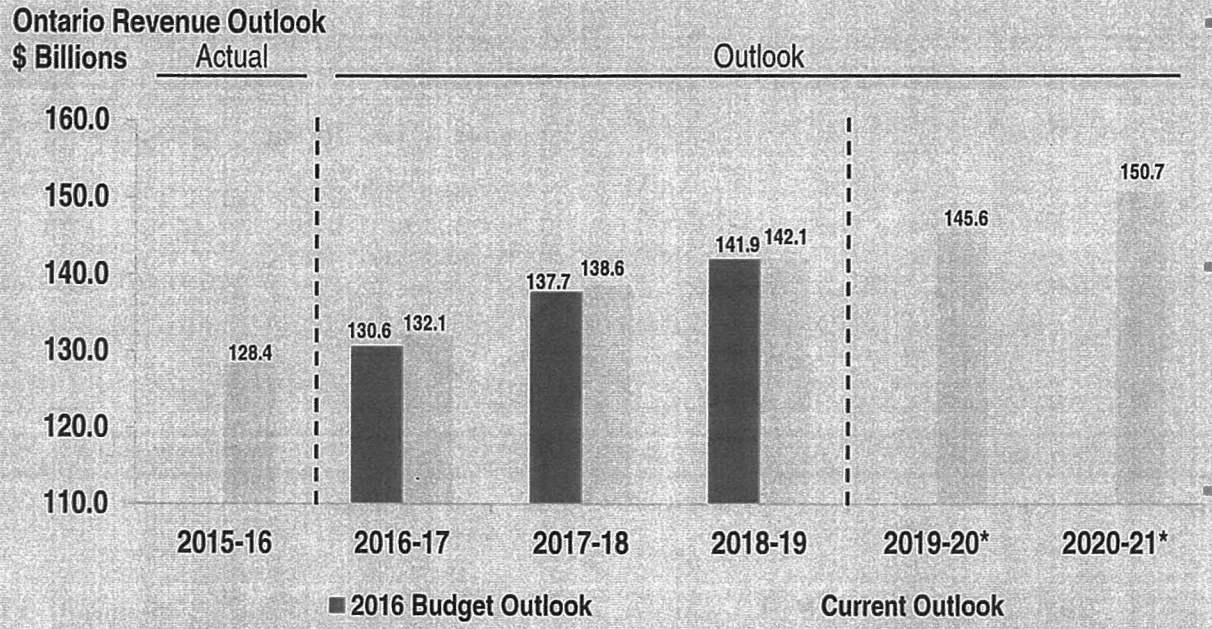
Upside Potential

- Low interest rate environment continues longer than expected, supporting domestic spending and investment
- Strong housing market continues
- Stronger-than-expected demand for Ontario exports in the US and overseas
- Greater-than-expected boost to households and businesses from sustained low oil prices

Downside Risks

- Global economic uncertainty and volatility in financial markets
- Rise in US and global trade protectionism
- Intensification of global competition – Mexico, China
- Sharp housing market downturn

Revenue Outlook

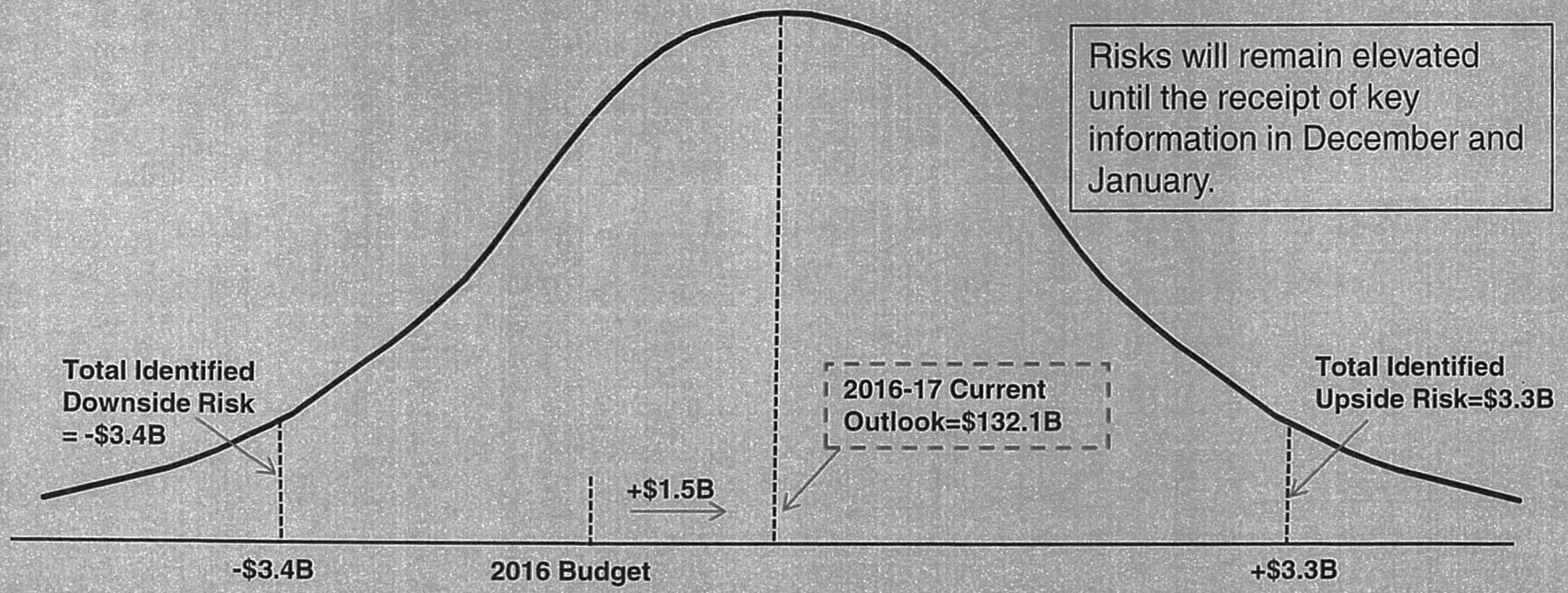


* Revenue projections for 2019-20 and 2020-21 do not assume new unconditional federal transfers of $1.3 billion per year that were built into the medium-term fiscal plan as part of the 2016 Budget.

- The **revenue outlook has improved** since the 2016 Budget mainly due to:
  - Higher 2015 personal income tax assessments.
  - A moderate improvement in the economic growth outlook.
- These improvements are partially offset by:
  - A lower Equalization payment outlook starting in 2017-18.
  - Updated information and assumptions on federal infrastructure funding.
- There is an unusually broad range of risk (+/- $3.4B) around the revenue forecast that will persist until late in the fiscal year.
  - Risks are evenly balanced around the current outlook.

Revenue Changes Since the 2016 Budget $ Billions	2016-17	2017-18	2018-19
June Economic Outlook & Revenue Information	0.6	0.6	0.6
August Update to PIT/OHP Assessments	0.9	1.0	1.1
Equalization Update	-	(0.6)	(0.9)
Canada Health and Social Transfers	0.0	0.1	0.1
Federal Funding – In-year Approvals	0.5	0.8	0.1
Federal Infrastructure Funding Assumption	(0.5)	(1.0)	(1.0)
Total Revenue Changes Since 2016 Budget	**1.5**	**0.9**	**0.2**

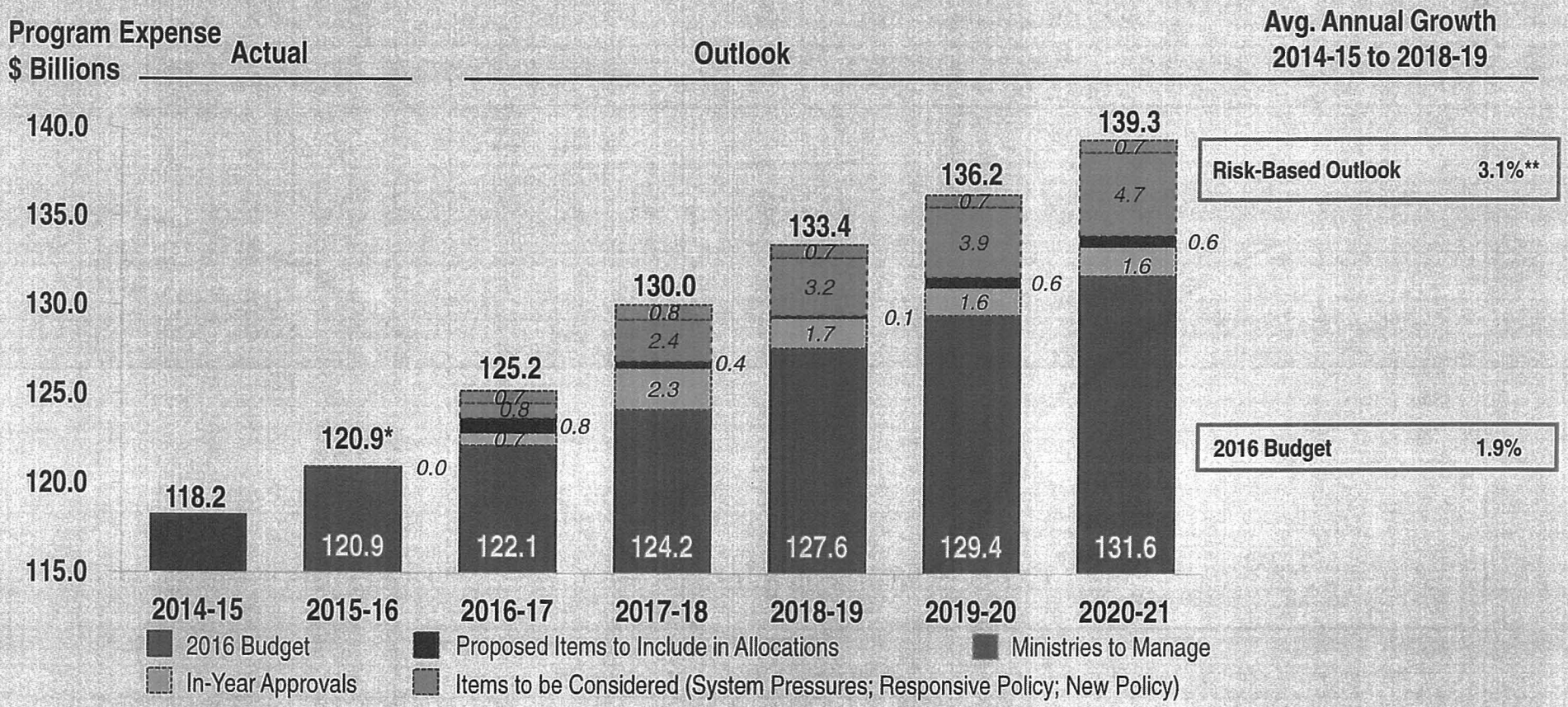
Broad Range of Risks Around 2016-17 Revenue Forecast



Risk Source	Downside Risk (Low)	Current Outlook	Upside Risk (High)
Economic Growth	-$0.4B : One half percentage point lower	+$0.6B: Improved since 2016 Budget	+0.4B: One half percentage point higher
PIT assessments	-$0.6B: Lower assessments	+$0.9B: Full 2015-16 Public Accounts increase carried forward	+$1.0B: Higher assessments
PIT tax planning	-$1.4B: Maximum tax planning estimate	None of PIT increase attributed tax planning	
CIT and HST estimates	-$0.2B: Lower estimate	No change from 2016 Budget	$1.5B: Higher estimate
Cap and Trade	-$0.4B: Only realize about 25% of Cap and Trade proceeds	No change from 2016 Budget	
Federal funding	-$0.2B: No new funding for home care and training	Infrastructure funding as per new commitments	
Government Business Enterprises	-$0.2B: Mainly lower OPG	No change from 2016 Budget	+$0.4B: Higher OLG and LCBO

Program Expense Outlook

- Based on in-year TB/MBC approvals to date, and a current assessment of risks and potential unfunded initiatives, the program expense outlook is projected to **grow at an average annual rate of 3.1%** between 2014-15 and 2018-19, compared to projected growth of 1.9% assumed in the 2016 Budget.
- This outlook assumes that Year-End Savings target of $0.8 billion in 2016-17 and $1.0 billion in the out-years is met, and funding is allocated for no more than net 1.4 per cent bargaining settlements in upcoming round of collective bargaining. It also does not yet incorporate a Document initiatives envelope.



*Preliminary actual results, pending final confirmation.
** Risk-based outlook if "ministries to manage" risks are managed = 2.9%

Examples of Expense Categories

In-Year Approvals

- First Nations Health Action Plan
- Autism Reform
- Child Welfare Reform
- School Renewal Funding
- Ontario's Action Plan for Reconciliation
- Revision to Drug Strategy
- Clean Water and Wastewater Fund (federal portion)
- Changes to Drive Clean program
- Electricity Price Mitigation

Proposed Items to Include in Allocations

- ✓ Partial funding for Social Assistance forecast pressures
- ✓ Education Remedy: roll-over and ongoing targeted sector investments
- ✓ Anti-Racism Directorate
- ✓ First Nations Hydro One Ownership
- ✓ Funding for First Nations Policing – wage parity / infrastructure investments

Items to be Considered

System Pressures:

- o Service enhancements in hospitals, long-term care, primary care, cancer care and new drugs
- o Social Assistance rate increases
- o Remaining Social Assistance forecast pressures
- o Transition of young adults with complex special needs
- o Reversal of some Business Support targets

Responsive Policy:

- o Additional School Renewal Funding (2018-19 onwards)
- o Segregation/Corrections Transformation
- o Response to Ombudsman's Developmental Services report

New Policy:

- o Child Care Expansion
- o Renewed Auto Sector Strategy
- o Ontario's Business Growth Initiative Update

Ministries to Manage

- × Additional pressures in MOHLTC
- × Relief from School Board Efficiency & Modernization Targets
- × Agriculture Business Risk Management
- × Renewed Social Enterprise Strategy

most of the builders are on track

Illustration: Potential Range of Fiscal Trajectories

$ Billions	2016-17	2017-18	2018-19	2019-20	2020-21
2016 Budget Surplus/(Deficit) Targets	**(4.3)**	**0.0**	**0.0**	**n/a**	**n/a**
Potential Outlook Changes					
Current Revenue Update	**1.5**	**0.9**	**0.2**		
Potential Program Expense Changes					
In-Year Approvals	0.7	2.3	1.7		
Proposed Items to Include in Allocations	0.8	0.4	0.1		
Items to be Considered					
System Pressures	0.6	1.5	2.1		
Responsive Policy	0.0	0.1	0.2		
New Policy	0.3	0.7	0.9		
Total Program Expense Changes	**2.4**	**5.0**	**5.1**		
Current Interest on Debt Savings	**(0.2)**	**(0.4)**	**(0.3)**		
Total Potential Outlook Changes	**(0.7)**	**(3.8)**	**(4.6)**		
Resulting Surplus/(Deficit)	**(5.0)**	**(3.8)**	**(4.6)**	**(4.2)**	**(2.6)**
Fiscal Gap Against 2016 Budget Targets	**(0.7)**	**(3.8)**	**(4.6)**	**tbd**	**tbd**
Other Potential Changes Being Tracked					
Ministries to Manage	0.7	0.8	0.7		
Resulting Surplus/(Deficit)	**(5.7)**	**(4.6)**	**(5.3)**	**(4.8)**	**(3.3)**
Fiscal Gap Against 2016 Budget Targets	**(1.4)**	**(4.6)**	**(5.3)**	**tbd**	**tbd**

Revenue

- ✓ Increased revenue from improved economic forecast, tax assessment information, and in-year approvals related to other federal funding.
- ✓ Assumes no changes to cap and trade proceeds and asset optimization.
- ✓ Assumes unconditional federal infrastructure revenue is not received.

Expense

- ✓ Increased program expense resulting from in-year approvals to date, proposed items to include in allocations and items to be considered (system pressures, responsive policy and new policy).
- ✓ IOD savings from lower-than-forecast interest rates.

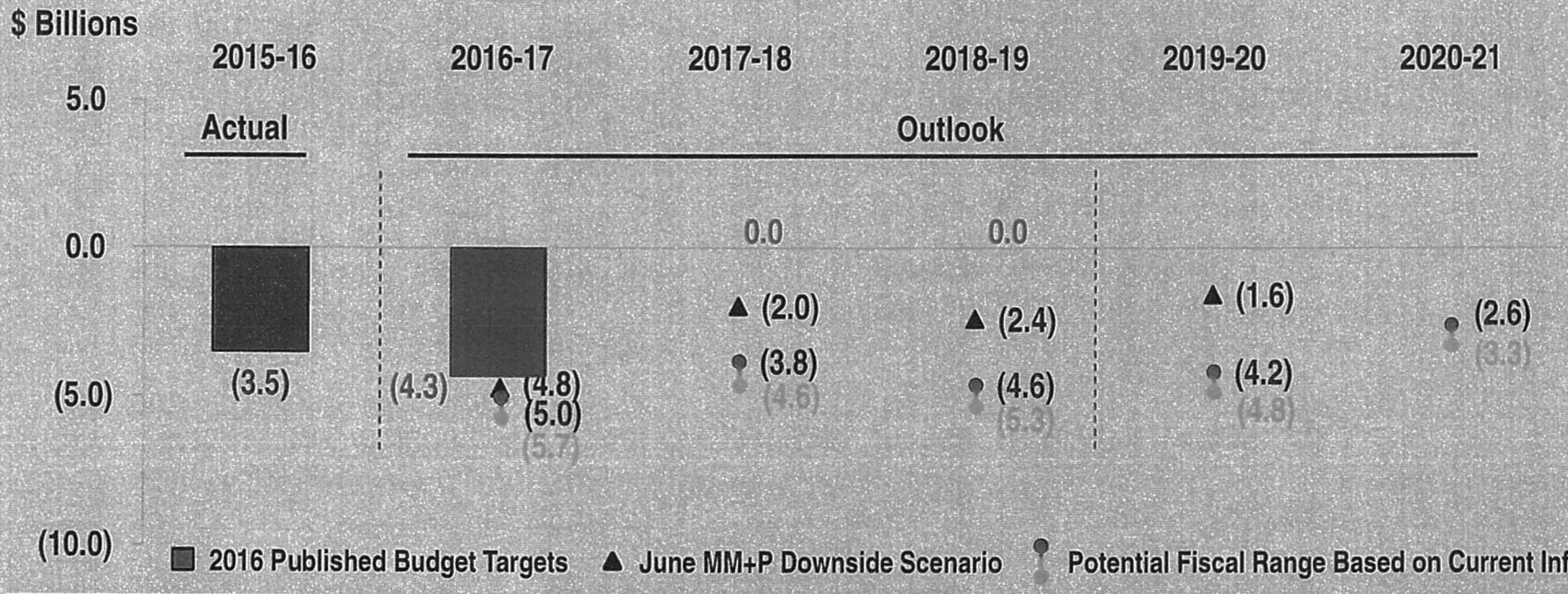
Expense

- ✓ Further program expense increase from risks to be managed by ministries.

- ✓ Assumes reserve is maintained and uncommitted contingency funds are available.

Illustration: Range of Fiscal Trajectories

- Current information suggests that choices will need to be made and action taken in order to hit or exceed the 2016-17 deficit target of $4.3 billion, or show progress beyond the potential 2015-16 actual results.
- Beyond the current fiscal year, current information suggests that action will be required to close the gap to meet the government's commitment to balance the budget in 2017-18 and beyond. This potential gap has increased compared to the gap outlined in June, mainly as a result of unfunded items to be considered.
- This range of potential fiscal trajectories does not take into account Document initiatives; risks from not meeting year-end savings targets or existing pressures that ministries are already managing; information still to come throughout the year; other policy initiatives currently under consideration; and any potential actions to close the gap. Assumes reserve is maintained and uncommitted contingency funds are available.



Net Debt-to-GDP	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Updated Outlook	39.4%	39.5%	38.8%	38.4%	n/a	n/a
Potential Range	39.4%	39.6%	39.5%	39.8%	40.0%	39.7%
	39.4%	39.7%	39.7%	40.0%	40.3%	40.1%

Information Still to Come

The **range of potential fiscal trajectories is preliminary**. There is still important information yet to be received and decisions that could potentially significantly impact the government's fiscal strategy:

Revenue	Expense
✓ Economic updates, including Provincial Economic Accounts (November 9th) ✓ Estimated proceeds for cap-and-trade ✓ Ongoing federal-Provincial negotiations related to federal transfers (e.g. home care) ✓ Progress on the government's asset optimization strategy ✓ Key revenue information in December and January, including federal HST update, and Equalization entitlements, and finalization of PIT and CT assessments. ✓ Monthly updates to personal and corporate income tax and income from Government Business Enterprises	✓ In-year TB/MBC expense approvals ✓ Ability to meet year-end savings targets ✓ Decisions related to new initiatives under consideration ✓ Upcoming PRRT plans ✓ Decisions related to upcoming PRRT items that may be deferred to the 2017 Document process, including: ▪ 2017 Document initiatives ▪ Alignment of climate change investments with available proceeds ✓ Updates on compensation negotiations and alignment with set asides (i.e. do outcomes come within or surpass net 1.4% target mandate?) ✓ Interest on debt forecast updates

As more information becomes available, it will help to solidify the outlook for 2016-17 and inform planning and assumptions for the out-years.

Fiscal Objectives Moving Forward

- Given the final results for 2015-16, and the current assessment of the fiscal outlook, the **government will need to consider its overall fiscal objectives and take action to ensure their achievement.**
- What will be the **government's fiscal anchors moving forward**?
  - Lower the **2016-17 deficit target** to align with 2015-16 actual results?
  - Ensure **balance is achievable in 2017-18**?
  - **Maintain balance or plan for surpluses** for longer-term targets (i.e. 2018-19 for FES, and 2019-20 for 2017 Document)?
  - Show progress on **debt sustainability**?
- Key fiscal strategies remain ensuring the integrity of **Provincial revenues** and the ongoing work through **Program Review, Renewal and Transformation (PRRT).**
- However, as funding for **new initiatives or pressures** is considered, **additional actions** will need to be initiated in order to meet overall fiscal objectives – beginning already in 2016-17.

Fiscal Architecture Choices and Considerations

The government has the opportunity to help ensure the achievement of both new initiatives and fiscal objectives, by taking action now to determine what initiatives to prioritize in the fiscal plan and consider available choices/trade-offs.

Potential Fiscal Gap from 2016-17 Deficit Target and Sustained Balanced Budgets

($ Billions)	2016-17	2017-18	2018-19	2019-20	2020-21
Potential Fiscal Gap	(0.7)	(3.8)	(4.6)	(4.2)	(2.6)

Potential Tools To Help Close the Gap

- Tools are scalable and can involve altering existing plans or introducing new measures and can be employed at different times depending on the need for immediate or longer-term relief:
  - As the greatest pressures stem from unfunded items to be considered since the 2016 Budget, consider ***scaling back, delaying, or otherwise reducing*** the fiscal impact of these items.
  - Adjusting fiscal plan provisions like the ***size of the contingency fund or reserve*** (reserve $1.0B/$1.1B/$1.2B, contingency fund of $0.6B in 2017-18 and onwards) may provide marginal flexibility.
  - Given pressures in key sectors (health, social services), may be limited opportunity to significantly further restrain the expense outlook, but could ***consider new boulders*** to help manage growth over the longer-term or consider ***additional savings targets*** in the near-term.
  - ***Revenue measures*** such as re-profiling the existing asset optimization plan and considering measures to increase tax revenue.
  - ***Robust engagement with the federal government*** to secure written agreements that would provide additional funding in areas such as health care and labour market transfers, while seeking ways to protect declines in other transfers (e.g. Equalization floor protection).
- May need to explore additional new, robust tools to ensure fiscal sustainability over longer-term.

Public Updates and Communication of the Fiscal Plan

- The government has opportunities, as well as continuous disclosure obligations, to update the fiscal plan and narrative leading up to the 2017 Budget.
- The Fall Economic Statement and the Budget are ideal opportunities for substantial changes. Other fiscal updates provide an opportunity for the fiscal narrative to gradually evolve throughout the fiscal year.
- **Credit rating agencies** will require a transparent account of all changes to the fiscal plan – for example, changes associated with new spending announcements and federal-provincial agreements.
- Also, the **Financial Accountability Office** will likely publish an assessment of Ontario's medium-term economic and fiscal outlook leading up to the Fall Economic Statement and after the Budget is released.

2015-16 Public Accounts
- ✓ Final audited results for 2015-16
- ✓ Could foreshadow fiscal updates for upcoming FES, including fiscal trajectory

2016 Fall Economic Statement
- ✓ Requires a mid-year review and update of the fiscal plan that reflects TB decisions and public commitments on investments
- ✓ Opportunity to revise fiscal targets, smooth out fiscal trajectory (2015-16 to balance), and communicate debt narrative

Long Term Report
- ✓ Requires a long-range assessment of the economic and fiscal environment
- ✓ Committed to releasing before the end of 2016-17.
- ✓ Opportunity to communicate fiscal sustainability and address debt concerns

2016-17 Third Quarter Finances
- ✓ Requires detailed update on revenue and expense for 2016-17
- ✓ Opportunity to reaffirm fiscal narrative or foreshadow any changes for upcoming Budget

2017 Document
- ✓ Requires a medium-term fiscal plan (2017-18 to 2019-20)
- ✓ Opportunity to publish the balanced-budget Budget and take credit for the plan to eliminate the deficit
- ✓ Could pivot fiscal narrative to focus on fiscal sustainability rather than targets

Next Steps

- ***In light of the current fiscal outlook:***
  - *Determine fiscal objectives, priorities and anchors to set fiscal architecture.*
  - *Develop options and actions necessary to achieve objectives.*
  - *Monitor and assess expense and revenue information, as well as potential risks and new initiatives – to ensure informed decision-making over the planning period.*

Key deliverables over the coming weeks:

- Update Cabinet on Public Accounts and out-year fiscal outlook (Sept)
- Develop and issue ministries' preliminary allocations (Sept)
- Develop FES fiscal strategy, to update the public on 2016-17 to 2018-19 (Sept/Oct)

File: Fiscal 2016-17

Fiscal Strategy: 2016 Fall Economic Statement

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Draft – September 20, 2016; 11:45 AM

Confidential Advice to Cabinet – PRELIMINARY DRAFT

Purpose

To **seek direction on the fiscal outlook and narrative** to include in the 2016 Fall Economic Statement (FES).

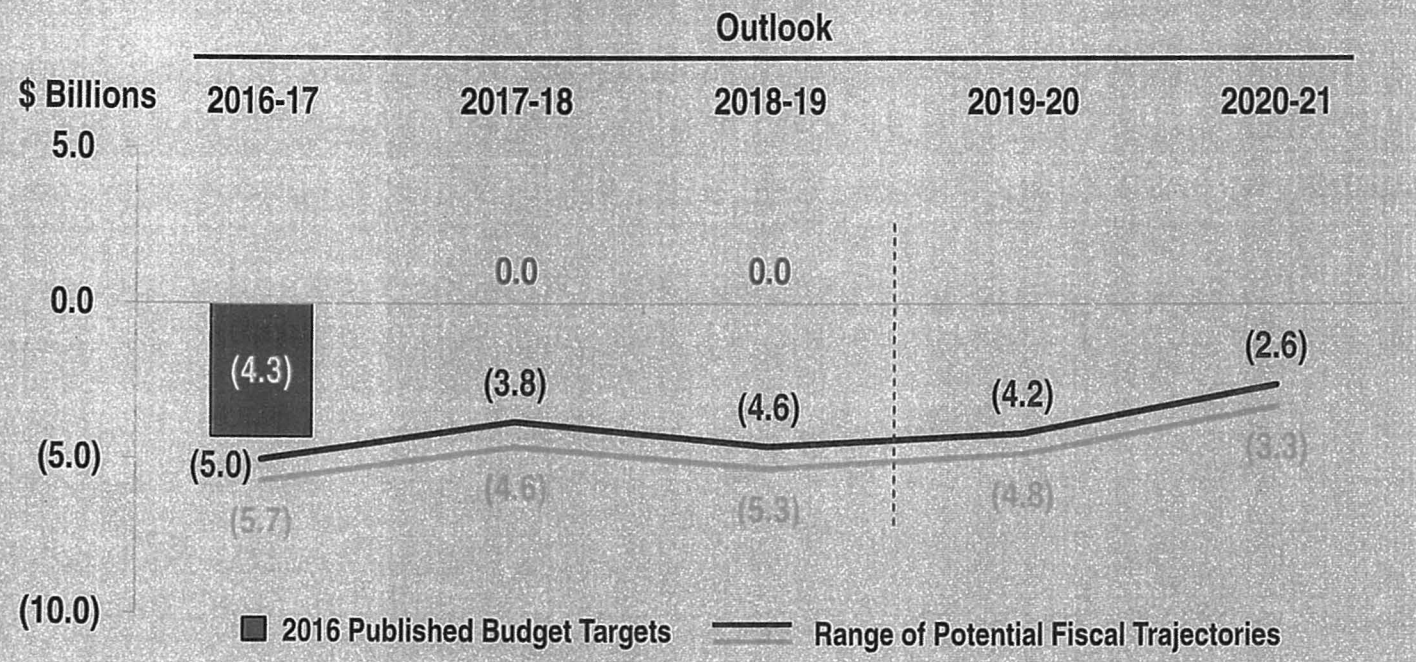
To support that decision, this presentation includes:

1. A reminder of the current fiscal outlook relative to the 2016 Budget plan
2. Requirements and previous approaches to fiscal reporting
3. Potential approaches and key decisions for consideration

Next steps and timelines to finalize the fiscal outlook are also outlined – to support current plan to lock numbers for FES on October 4.

Current Assessment of Fiscal Outlook and Risks

- The current assessment of available revenue and expense information, risks and pressures indicates a potential range of fiscal trajectories, which **generate a gap relative to the 2016 Budget fiscal targets in each of 2016-17, 2017-18 and 2018-19.**



Net Debt-to-GDP	2016-17	2017-18	2018-19	2019-20	2020-21
Potential Range	39.6%	39.5%	39.8%	40.0%	39.7%
	39.7%	39.7%	40.0%	40.3%	40.1%

- **Key decisions will need to be made** to determine the **fiscal outlook for the Fall Economic Statement.**
- The next phase of **fiscal architecture** planning will address the full extent of the risks the government is facing and serve as the foundation for the **2017 Document.**

Context

- The *Fiscal Transparency and Accountability Act, 2004* (FTAA) stipulates that the Minister of Finance release a **mid-year review** of the Province's fiscal plan by **November 15**.
- Since 2003, the Fall Economic Statement has included a **multi-year update** in all but two years (see appendix for details).
  - In 2008, due to the potential impact of global economic uncertainty, the government used the FES to communicate an immediate update to the in-year fiscal plan only.
  - In 2013, the government published a status quo update to the in-year deficit, but published the 2013 Budget path to balance.
  - In five of the eleven years with multi-year updates, the Fall Economic Statement reported no change to the medium-term fiscal targets.
- In the past, the government has also used the **fiscal narrative to signal risks to the plan and foreshadow potential tools or changes** to the government's fiscal architecture.

Updates to revenue and expense in the 2016 FES fiscal outlook need to be informed by:

- Previous fiscal and economic updates (i.e. 2015-16 Public Accounts, First Quarter Finances and quarterly Economic Accounts)
- Government announcements related to new programs/policy/investments and/or revenue commitments (i.e., public announcements on new investments/initiatives, Speech from the Throne commitments, etc.)
- New federal-provincial agreements (i.e. infrastructure agreements)
- Spending decisions associated with TB/MBC approvals

Key Decision Point: Fiscal Horizon and Content

The government has a number of key decisions to consider for determining the fiscal outlook for the Fall Economic Statement:

Decision Point: Publish an in-year or multi-year fiscal update?

In-Year Only (2016-17)

Decision Point: What the 2016-17 deficit target should be?

On target: $4.3 billion

- Take on current updated outlook for revenue and interest on debt.
- Report all in-year approvals minuted by TB/MBC.
- If remaining expense changes assumed to be managed within plan, a more cautious revenue forecast could be used.

Slight Improvement

- Improving the deficit target could better align with preliminary actual results for 2015-16, and smooth out the trajectory to balance.
- If no update to the out-years to show how new spending is accommodated, it could result in questions about the status of the government's plan to balance (e.g. FAO)

Multi-Year (2016-17 to 2018-19)

Decision Point: What are the levers available to achieve existing targets?

Potential Levers

- Preserve federal infrastructure assumption from 2016 Budget in 2018-19?
- Take on additional interest on debt savings?
- Offset a portion of electricity price mitigation from the contingency fund?
- Make marginal adjustments to the reserve?

Starting Point Fiscal Outlook

A reasonable starting point from which to make decisions regarding the fiscal strategy for FES is taking on the updated revenue and interest on debt outlooks along with key spending changes aligned with government approvals to date.

2016 Budget Fiscal Plan				Change			Starting Point		
$ Billions	16-17	17-18	18-19	16-17	17-18	18-19	16-17	17-18	18-19
Revenue	**130.6**	**137.7**	**141.9**	***1.5***	***0.9***	***0.2***	**132.1**	**138.6**	**142.1**
Expense									
Programs	120.9	122.4	124.1	–	–	–	120.9	122.4	124.1
In-Year Approvals	–	–	–	*0.3*	–	–	0.3	–	–
Green Investment Fund	–	–	–	*0.3*	–	–	0.3	–	–
Electricity Price Mitigation	–	–	–	*0.3*	*0.9*	*0.9*	0.3	0.9	0.9
Inv. in Affordable Housing	–	–	–	*0.1*	–	–	0.1	–	–
PSE Strategic Inv. Fund	–	–	–	*0.3*	*0.5*	*0.0*	0.3	0.5	0.0
Clean Water/Wastewater Fund	–	–	–	*0.1*	*0.3*	*0.1*	0.1	0.3	0.1
Contingency Fund	1.2	1.7	3.5	*(0.9)*	–	–	0.3	1.7	3.5
Total Programs	**122.1**	**124.2**	**127.6**	***0.5***	***1.8***	***1.1***	**122.7**	**125.9**	**128.7**
Interest on Debt	11.8	12.5	13.1	*(0.2)*	*(0.4)*	*(0.3)*	11.6	12.1	12.8
Total Expense	**133.9**	**136.6**	**140.7**	***0.4***	***1.4***	***0.8***	**134.3**	**138.0**	**141.5**
Reserve	1.0	1.1	1.2	–	–	–	1.0	1.1	1.2
Surplus/(Deficit)	**(4.3)**	**0.0**	**0.0**	***1.1***	***(0.5)***	***(0.6)***	**(3.2)**	**(0.5)**	**(0.6)**
Net debt-to-GDP (%)	39.6	38.9	38.5				TBD	TBD	TBD

Current revenue outlook

Program expense changes requiring public reporting:

- ✓ In-year approvals
- ✓ Out-year impact of key announcements (i.e., Electricity Price Mitigation, spending associated with federal agreements)
- ✓ Contingency Fund offsets

Latest IOD forecast

Gap to address for FES

Remaining Risks / Information to Come

- It is important to note that this starting point fiscal outlook **does not take into account all known revenue and expense risks the government is facing or account for potential information updates to come**.
- Instead, these risks, together with potential revenue and expense tools, will need to be addressed as part of the upcoming PRRT and 2017 Document process.
- Key updates and risks not addressed in the FES fiscal strategy include:
  - **Asset optimization** updates
  - **Variability in the revenue outlook** that will remain elevated until the receipt of key information in December and January
  - **Program expense pressures and potential unfunded initiatives** of approximately $2.5 billion in 2016-17, $4.1 billion in 2017-18 and $4.7 billion in 2018-19 related to items such as:
    - Social Assistance forecast pressures and potential rate increases;
    - Child Care expansion;
    - Capital investments; and
    - Funding for hospitals and other service enhancements in the health sector.
- The following potential FES fiscal reporting options only address immediate reporting requirements and do not solve the majority of the fiscal gap which will be addressed through the PRRT process and the Document process.

Potential Approach to 2016-17

Assuming all spending changes are accommodated within the fiscal plan, the government **could report a lower 2016-17 deficit target** – $3.2 billion compared with the 2016 Budget target of $4.3 billion.

- This would possibly align with preliminary actual results for 2015-16 and smooth out the fiscal trajectory to balance.

Alternatively, the government **could take a more cautious approach to revenue and expense in order to align more closely with the $4.3 billion deficit target.**

- This would still ensure some alignment with 2015-16 results, as the deficit excluding the reserve is $3.3 billion in 2016-17.

Potential approaches to caution include:

- ✓ Reversing the 2016 Budget assumption of unconditional home care funding of $0.2 billion in 2016-17
- ✓ Offsetting the impact of Electricity Price Mitigation and Green Investment Fund from revenue rather than the Contingency Fund
- ✓ Minimizing the amount of interest on debt savings reported.

Potential Approach to 2016-17	
$ Billions	2016-17
Starting Point Surplus/(Deficit)	**(3.2)**
Fiscal Caution	
Reverse Federal Home Care Assumption	(0.2)
Reverse Contingency Fund Offset for Electricity Price Mitigation / Green Investment Fund	(0.6)
Preserve Interest on Debt Savings	(0.2)
Total Fiscal Caution	**(0.9)**
Revised Surplus/(Deficit)	**+\-(4.1)**

Potential Approach to Multi-Year Update

The **starting point fiscal outlook still produces a fiscal gap** of $0.5 billion in 2017-18 and $0.6 billion in 2018-19 – which will require the use of tools/levers in order to maintain the 2016 Budget targets of balance in both 2017-18 and 2018-19.

Potential Tools/Levers	Considerations
Take on more **interest on debt** savings in 2017-18 and 2018-19	• Along with the potential approach to 2016-17, would result in an inconsistent treatment of interest on debt expense over the 2016-17 to 2018-19 period. • Reduces flexibility for 2017 Document planning and increases the risk to the IOD forecast from potential interest rate or foreign exchange rate changes.
Offset some of the 2017-18 impact of Electricity Price Mitigation by **drawing down the Contingency Fund**	• Contingency Fund could be drawn down by ~$0.3 billion, leaving a total of $1.4 billion in 2017-18. • Compensation set-aside in 2017-18 is $1.0 billion, leaving $0.4 billion to mitigate all other expense risks.
Preserve some of the unconditional **federal infrastructure funding** in 2018-19	• $0.4 billion of the $1.0 billion in unconditional federal infrastructure funding assumed in the 2016 Budget could be maintained in the outlook for 2018-19. • This could be linked to the potential fiscal benefit of the next phase of infrastructure funding negotiations with the federal government (i.e., Phase 2).

Choices could be made about the magnitude and composition of potential tools/levers to close the gap in 2017-18 and 2018-19.

Details of Potential Multi-Year Update

For 2017-18 and 2018-19, the government could decide to update the fiscal plan at a high level (total revenue and expense), or could provide a more detailed break-down of changes (i.e., components of revenue and expense by sector).

Starting Point Fiscal Outlook $ Billions	17-18	18-19	Additional Change 17-18	 18-19	Potential Update 17-18	 18-19
Revenue	**138.6**	**142.1**	–	***0.4***	**138.6**	**142.5**
Expense						
Programs	122.4	124.1	–	–	122.4	124.1
In-Year Approvals	–	–	–	–	–	–
Green Investment Fund	–	–	–	–	–	–
Electricity Price Mitigation	0.9	0.9	–	–	0.9	0.9
Inv. in Affordable Housing	–	–	–	–	–	–
PSE Strategic Inv. Fund	0.5	0.0	–	–	0.5	0.0
Clean Water/Wastewater Fund	0.3	0.1	–	–	0.3	0.1
Contingency Fund	1.7	3.5	*(0.3)*	–	1.4	3.5
Total Programs	**125.9**	**128.7**	***(0.3)***	**–**	**125.7**	**128.7**
Interest on Debt	12.1	12.8	*(0.3)*	*(0.3)*	11.8	12.6
Total Expense	**138.0**	**141.5**	***(0.5)***	***(0.3)***	**137.5**	**141.2**
Reserve	1.1	1.2	–	–	1.1	1.2
Surplus/(Deficit)	**(0.5)**	**(0.6)**	***0.5***	***0.6***	**0.0**	**0.0**
Net debt-to-GDP (%)	TBD	TBD				

Preserve $0.4 billion of the unconditional federal infrastructure funding in 2018-19

Offset some of the 2017-18 impact of Electricity Price Mitigation by drawing down the Contingency Fund

Additional IOD savings in 2017-18 and 2018-19

Use of tools/levers as part of the FES fiscal strategy could **impact the flexibility the government has to address the broader fiscal gap** as part of PRRT and Document planning.

Potential FES Fiscal Narrative

- [Earlier this month, the Public Accounts of Ontario 2015-2016 reported that the 2015-16 deficit was $XX billion, an improvement of $XX billion compared with the 2015 Budget projection of $8.5 billion. This is the seventh consecutive year the government has beaten its fiscal targets.]
- The government is projecting a deficit of $XX billion in 2016-17 and continues to project balance in 2017-18 and 2018-19, consistent with the 2016 Budget plan.
- [The Ontario economy continues to benefit from steady economic growth in the United States, low oil prices and a more competitive Canadian dollar, which improves the Province's revenue forecast.]
- [The government is sharing the benefits of the Province's economic growth and responsible approach to fiscal management by moving to make everyday life easier for Ontarians through new investments such as electricity rate relief to Ontario consumers.]
- [A collaborative approach to federalism continues to yield results. A number of agreements have been reached that result in Ontario securing $0.5 billion in revenue in 2016-17 to fund new infrastructure programs. Ontario will continue to work with the federal government to ensure support for the Province's plans to invest in infrastructure, health, and labour market training.]
- [The government remains committed to balancing the budget in 2017-18 and beginning to reduce the Province's net debt-to-GDP ratio.]

Summary of Key Decisions

Fiscal Horizon and Detail

- Whether to provide an in-year update (2016-17 only) or a full multi-year update.
- Whether to provide summary fiscal update or details by sector.

Fiscal Reporting Choices

- Whether to maintain 2016-17 deficit target or begin to show slight improvement.
  - If maintain target, what assumptions underpin this target?
- For out-years, how to report the funding of key initiatives such as the electricity mitigation rebate while still showing on track to balance.

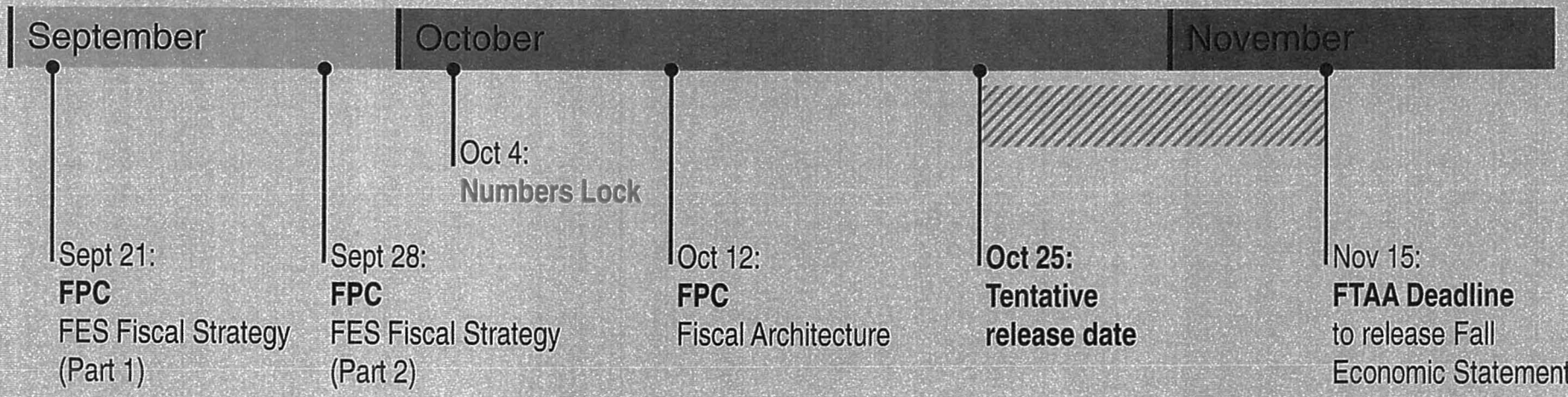
Fiscal Narrative

- Whether to use the FES fiscal narrative to foreshadow tools or other fiscal architecture choices the government may want to take on as part of the 2017 Document.

Next Steps & Timeline

Next Steps

- September 21 FPC: Seeking preliminary direction on FES fiscal outlook.
- September 28 FPC: Confirm FES fiscal outlook.
- October 4: To ensure adequate time to complete, review and print the document, **"numbers lock"** needs to occur three weeks before the release date.
- October 12 FPC: Once FES fiscal outlook is finalized, begin initial fiscal architecture discussions for the 2017 Document.



Appendix

Analysis of Previous Fall Economic Statements

Published Deficit Comparisons – Budget to FES

Fiscal year of FES	In-Year	Medium-Term	Notes/Supporting Language
2003-04	Deterioration	Deterioration	
2004-05	Improvement	Status Quo	▪ "The government's deficit targets for the medium term are unchanged, culminating in a balanced budget in 2007-08"
2005-06	Improvement	Status Quo	▪ "Consistent with the medium-term fiscal plan outlined in the 2005 Budget…"
2006-07	Improvement	Deterioration	▪ Plan-year consistent with Q1 finances, deteriorated out-year deficits due to softer economic growth (revenue).
2007-08	Improvement	Deterioration	▪ Instead of small surpluses (as published during the Budget), shifted down to "balance" in out-years in light of the "slower economic growth outlook"
2008-09	Deterioration	N/A	▪ Presented in-year details only. "Given global economic uncertainty, the government's immediate priority is to provide a fiscal update for 2008-09. The government continues to monitor Ontario's economic and fiscal situation closely, and will provide details about Ontario's medium-term fiscal plan and outlook in the 2009 Budget."
2009-10	Deterioration	Deterioration	▪ Significant deterioration due to global economic conditions
2010-11	Improvement	Status Quo	▪ "The Province is on track to meet the [medium-term] fiscal targets established in the 2010 Budget."
2011-12	Improvement	Status Quo	▪ Improvement to the in-year deficit, but status quo for out-years. "Despite forecasts of slower economic growth, the Province is on track to meet the fiscal targets laid out in the 2011 Budget."
2012-13	Improvement	Improvement	
2013-14	Status Quo	N/A	▪ Presented in-year update only. Included 2013 Budget path to balance chart, and did not update medium-term outlook. "Ontario continues to face global economic uncertainty, which is holding back economic growth and therefore the outlook for Provincial revenues. In response, the government will drive further savings through an expenditure review… and consider other tools, as necessary, to ensure the deficit is eliminated by 2017-18."
2014-15	Status Quo	Status Quo	▪ "The government projects deficits of…unchanged from the forecast outlined in the 2014 Budget."
2015-16	Improvement	Improvement	▪ "The government is currently projecting deficits of…This reflects an improvement of…compared with the deficit targets laid out in the 2015 Budget"

Starting Point – Revenue Assumptions

- The **revenue outlook has improved** since the 2016 Budget mainly due to:
  - Higher 2015 personal income tax assessments.
  - A moderate improvement in the economic growth outlook.
- These improvements are partially offset by:
  - A lower Equalization payment outlook starting in 2017-18.
  - Updated information and assumptions on federal infrastructure funding.
- There is an unusually broad range of risk (+/- $3.4B) around the revenue forecast that will persist until late in the fiscal year.
  - Risks are evenly balanced around the current outlook.

Current Revenue Changes Since the 2016 Budget $ Billions	2016-17	2017-18	2018-19
June Economic Outlook & Revenue Information	0.6	0.6	0.6
August Update to PIT/OHP Assessments	0.9	1.0	1.1
Equalization Update	-	(0.6)	(0.9)
Canada Health and Social Transfers	0.0	0.1	0.1
Federal Funding – In-Year Approvals	0.5	0.8	0.1
Reverse Federal Infrastructure Funding Assumption	(0.5)	(1.0)	(1.0)
Total Revenue Changes Since 2016 Budget	**1.5**	**0.9**	**0.2**

Starting Point – Total Program Expense Changes in 2016-17

($ Millions)	2016-17
MCYS/MOHLTC: First Nations Health Action Plan	40.4
MCYS: Autism Reform	91.3
EDU: School Renewal Funding	37.6
MNRF: Emergency Forest Firefighting	65.0
MAA/MNRF: Chapleau Cree Stage 2B	0.4
MAA: Priority Initiatives for Indigenous Communities	1.8
MCSS: Child Support Payments Exemption	2.7
OMAFRA: Ontario Corn Fed Beef Market Development Strategy	3.1
MEDEI: Business Growth Initiative - Tranche 1	(10.0)
MMAH: National Disaster Mitigation Program	0.9
CO: Anti-Racism Directorate - Request for Additional Resource	2.9
CO: International Disaster Relief Program - Ecuador	0.5
CO: Disaster Relief Funding Fort McMurray Wildfire	0.5
MAA: Transfer of Brant – Burtch Correctional Centre	4.3
MCSS: Provincial Anti Human Trafficking Coordination Office	1.4
MOF: ORPP AC Wind-Up	20.0
MCSCS: Response to Nishnawbe-Aski Police Service Labour Issue	5.6
Various: Green Investment Fund	325.0
ENE: Electricity Mitigation	300.0
MMAH: Investment in Affordable Housing	139.8
MAESD: Post-Secondary Education Strategic Investment Fund	293.1
MEDEI: Clean Water/Wastewater Fund	85.5
Contingency Fund	(892.6)
Total In-Year Approvals	**519.2**

Total In-Year Approvals of $286 million

Total expense approvals associated with federal infrastructure agreements of $518 million

File Fiscal 2016-17

Fiscal Strategy:
2016 Fall Economic Statement

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Draft – September 21, 2016; 8:30 AM

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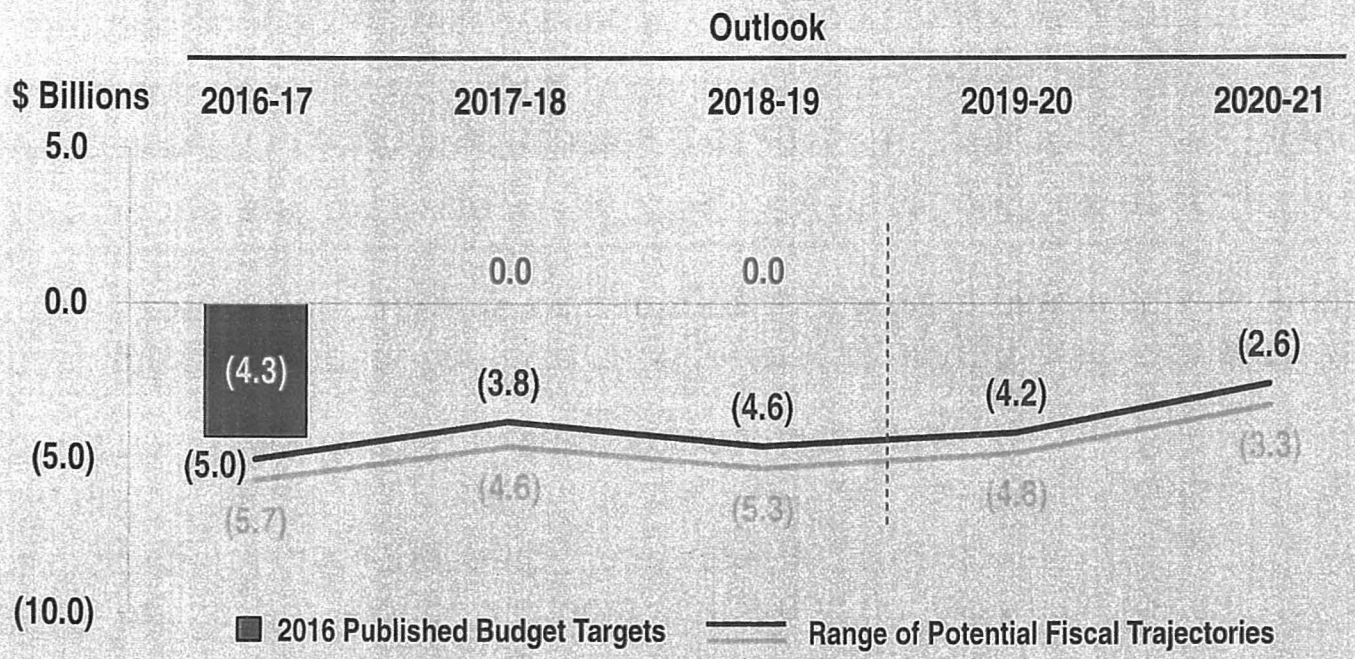

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In-Year Only (2016-17)

Decision Point: What the 2016-17 deficit target should be?

Lower Target ($3.5B)

- A lower deficit target could possibly align with preliminary actual results for 2015-16, and smooth out the trajectory to balance.
- However, a much lower target leaves limited flexibility in place should in-year savings not be found and the remaining risks and pressures materialize.

Slight Improvement ($3.6B to $3.8B)

- Alternatively, could take a more cautious approach to revenue and expense in order to reflect only a slight improvement in the deficit target.
- This would provide more flexibility to deal with in-year pressures and changes that could result from new information.

Multi-Year (2016-17 to 2018-19)

Decision Point: What are the levers available to achieve existing targets?

Potential Levers

- Preserve federal infrastructure assumption from 2016 Budget in 2018-19?
- Take on additional interest on debt savings?
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Green Investment Fund	–	–	–	*0.3*	–	–	0.3	–	–
Electricity Price Mitigation	–	–	–	*0.3*	*0.9*	*0.9*	0.3	0.9	0.9
Inv. in Affordable Housing	–	–	–	*0.1*	–	–	0.1	–	–
PSE Strategic Inv. Fund	–	–	–	*0.3*	*0.5*	*0.0*	0.3	0.5	0.0
Clean Water/Wastewater Fund	–	–	–	*0.1*	*0.3*	*0.1*	0.1	0.3	0.1
Contingency Fund	1.2	1.7	3.5	*(0.6)*	–	–	0.6	1.7	3.5
Total Programs	**122.1**	**124.2**	**127.6**	***0.8***	***1.8***	***1.1***	**123.0**	**125.9**	**128.7**
Interest on Debt	11.8	12.5	13.1	*(0.2)*	*(0.4)*	*(0.3)*	11.6	12.1	12.8
Total Expense	**133.9**	**136.6**	**140.7**	***0.7***	***1.4***	***0.8***	**134.6**	**138.0**	**141.5**
Reserve	1.0	1.1	1.2	–	–	–	1.0	1.1	1.2
Surplus/(Deficit)	**(4.3)**	**0.0**	**0.0**	***0.8***	***(0.5)***	***(0.6)***	**(3.5)**	**(0.5)**	**(0.6)**
Net Debt-to-GDP (%)*	39.5	38.8	38.4				39.4	38.9	38.6

Current revenue outlook

Program expense changes requiring public reporting:

- ✓ In-year approvals (including contingency fund offsets)
- ✓ Electricity Price Mitigation offset by higher revenue.
- ✓ Out-year impact of other approvals (i.e., spending associated with federal agreements)

Latest IOD forecast

Gap to address for FES

*2016 Budget ratios updated for preliminary actual results for 2015-16 and revised 2015 Nominal GDP.

Potential Approach to 2016-17

The government **could report a lower 2016-17 deficit target** – as low as $3.5 billion -- compared with the 2016 Budget target of $4.3 billion.

- This would possibly align with preliminary actual results for 2015-16 and smooth out the fiscal trajectory to balance.
- However, this approach assumes that all the remaining risks and pressures, as well as savings yet to be identified, are managed.

Alternatively, the government **could take a more cautious approach to revenue and expense in order to reflect a slight improvement in the deficit target**.

Potential approaches include:

- ✓ Lowering revenue by reversing the 2016 Budget assumption of unconditional home care funding of $0.2 billion in 2016-17
- ✓ Increasing expense by incorporating a potential investment (e.g., health)
- ✓ Minimizing the amount of interest on debt savings reported

Potential Approach to 2016-17 $ Billions	2016-17
Starting Point Surplus/(Deficit)	**(3.5)**
Fiscal Caution	
Reverse Federal Home Care Assumption	(0.2)
Potential FES Investment (e.g., health)	TBD
Preserve Interest on Debt Savings	0.0 to (0.2)
Total Fiscal Caution	**(0.2) to (0.3)**
Revised Surplus/(Deficit)	**(3.6) to (3.8)**

Potential Approach to Multi-Year Update

The **starting point fiscal outlook still produces a fiscal gap** of $0.5 billion in 2017-18 and $0.6 billion in 2018-19 – which will require the use of tools/levers in order to report that the government is maintaining the 2016 Budget targets of balance in both 2017-18 and 2018-19.

Potential Tools/Levers	Considerations
Take on more **interest on debt** savings in 2017-18 and 2018-19	• Along with the potential approach to 2016-17, would result in an inconsistent treatment of interest on debt expense over the 2016-17 to 2018-19 period and potentially a flat outlook for interest on debt between 2016-17 and 2017-18. • Reduces flexibility for 2017 Document planning and increases the risk to the IOD forecast from potential interest rate or foreign exchange rate changes.
Offset some of the 2017-18 impact of Electricity Price Mitigation by **drawing down the Contingency Fund**	• Contingency Fund could be drawn down by ~$0.3 billion, leaving a total of $1.4 billion in 2017-18. • Compensation set-aside in 2017-18 is $1.0 billion, leaving $0.4 billion to mitigate all other expense risks or further requirements for compensation set-aside.
Increase projected revenue in 2018-19	• Additional revenue could be linked to expectations around new federal revenue. However, as with the 2016 Budget assumption, in the absence of new federal revenue in this form, other tools may need to be considered to meet this target.

Choices could be made about the magnitude and composition of potential tools/levers to close the gap in 2017-18 and 2018-19.

Details of Potential Multi-Year Update

For 2017-18 and 2018-19, the government could decide to update the fiscal plan at a high level (total revenue and expense), or could provide a more detailed break-down of changes (i.e., components of revenue and expense by sector).

	Starting Point Fiscal Outlook		Additional Change		Potential FES Outlook	
$ Billions	17-18	18-19	17-18	18-19	17-18	18-19
Revenue	**138.6**	**142.1**	–	***0.4***	**138.6**	**142.5**
Expense						
Programs	122.4	124.1	–	–	122.4	124.1
In-Year Approvals	–	–	–	–	–	–
Green Investment Fund	–	–	–	–	–	–
Electricity Price Mitigation	0.9	0.9	–	–	0.9	0.9
Inv. in Affordable Housing	–	–	–	–	–	–
PSE Strategic Inv. Fund	0.5	0.0	–	–	0.5	0.0
Clean Water/Wastewater Fund	0.3	0.1	–	–	0.3	0.1
Contingency Fund	1.7	3.5	*(0.3)*	–	1.4	3.5
Total Programs	**125.9**	**128.7**	***(0.3)***	**–**	**125.7**	**128.7**
Interest on Debt	12.1	12.8	*(0.3)*	*(0.3)*	11.8	12.6
Total Expense	**138.0**	**141.5**	***(0.5)***	***(0.3)***	**137.5**	**141.2**
Reserve	1.1	1.2	–	–	1.1	1.2
Surplus/(Deficit)	**(0.5)**	**(0.6)**	***0.5***	***0.6***	**0.0**	**0.0**
Net Debt-to-GDP (%)	38.9	38.6			38.9	38.5

Higher revenue projection in 2018-19 (e.g., federal revenue)

Offset some of the 2017-18 impact of Electricity Price Mitigation by drawing down the Contingency Fund

Additional IOD savings in 2017-18 and 2018-19

Use of tools/levers as part of the FES fiscal strategy could **impact the flexibility the government has to address the broader fiscal gap** as part of PRRT and Document planning.

Remaining Risks / Information to Come

- It is important to note that the proposed FES fiscal outlook **does not take into account all known revenue and expense risks the government is facing or account for potential information updates to come**.
- Instead, these risks, together with potential revenue and expense tools, will need to be addressed as part of the upcoming PRRT and 2017 Document processes.
- Key updates and risks not addressed in the FES fiscal strategy include:
  - **Asset optimization** updates
  - **Variability in the revenue outlook** that will remain until the receipt of key information in December and January
  - **Program expense pressures and potential unfunded initiatives** of approximately $2.2 billion in 2016-17, $4.4 billion in 2017-18 and $4.7 billion in 2018-19 related to items such as:
    - Social Assistance forecast pressures and potential rate increases;
    - Child Care expansion;
    - Capital investments;
    - Compensation; and
    - Funding for hospitals and other service enhancements in the health sector.
- The potential FES fiscal reporting options only address immediate reporting requirements and do not solve the majority of the fiscal gap which will be addressed through the PRRT process and the Document process.

Summary of Key Decisions

Fiscal Horizon and Detail

- Whether to provide an in-year update (2016-17 only) or a full multi-year update.
- Whether to provide summary fiscal update or details by sector.

Fiscal Reporting Choices

- Whether to maintain 2016-17 deficit target or begin to show slight improvement.
  - If maintain target, what assumptions underpin this target?
- For out-years, how to report the funding of key initiatives such as the electricity mitigation rebate while still showing on track to balance.
- Consider net debt-to-GDP profile (e.g., assuming 2015-16 deficit of $3.5 billion, the 2016-17 deficit would need to be $3.6 billion in order to ensure net debt-to-GDP remains level across 2015-16 and 2016-17).

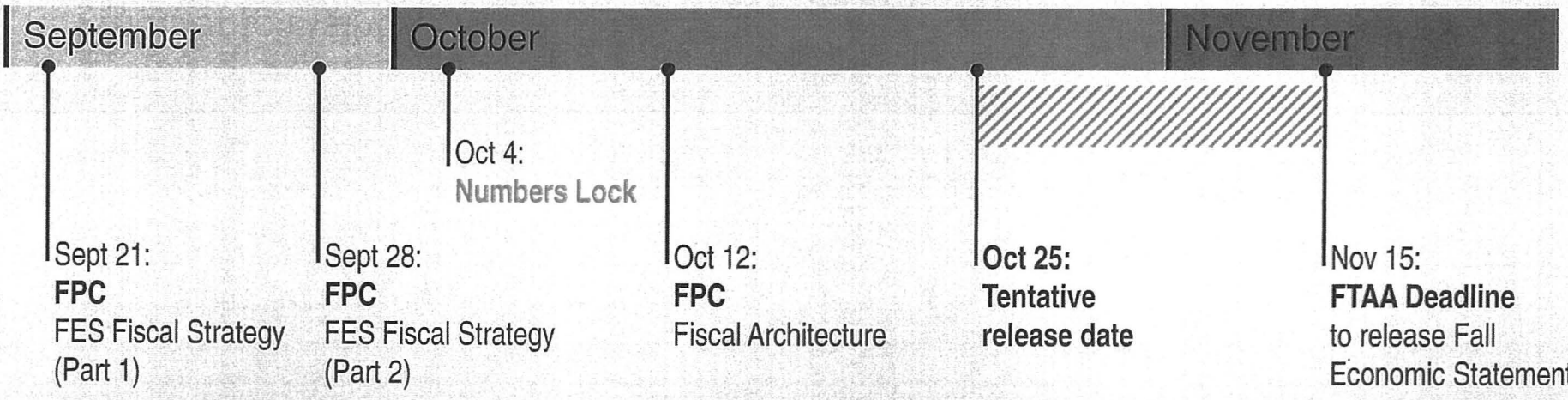
Fiscal Narrative

- Whether to use the FES fiscal narrative to foreshadow tools or other fiscal architecture choices the government may want to take on as part of the 2017 Document.

Next Steps & Timeline

Next Steps

- September 21 FPC: Seeking preliminary direction on FES fiscal outlook.
- September 28 FPC: Confirm FES fiscal outlook.
- October 4: To ensure adequate time to complete, review and print the document, **"numbers lock"** needs to occur three weeks before the release date.
- October 12 FPC: Once FES fiscal outlook is finalized, begin initial fiscal architecture discussions for the 2017 Document.



Appendix

Analysis of Previous Fall Economic Statements

Published Deficit Comparisons – Budget to FES

Fiscal year of FES	In-Year	Medium-Term	Notes/Supporting Language
2003-04	Deterioration	Deterioration	
2004-05	Improvement	Status Quo	▪ "The government's deficit targets for the medium term are unchanged, culminating in a balanced budget in 2007-08"
2005-06	Improvement	Status Quo	▪ "Consistent with the medium-term fiscal plan outlined in the 2005 Budget…"
2006-07	Improvement	Deterioration	▪ Plan-year consistent with Q1 finances, deteriorated out-year deficits due to softer economic growth (revenue).
2007-08	Improvement	Deterioration	▪ Instead of small surpluses (as published during the Budget), shifted down to "balance" in out-years in light of the "slower economic growth outlook"
2008-09	Deterioration	N/A	▪ Presented in-year details only. "Given global economic uncertainty, the government's immediate priority is to provide a fiscal update for 2008-09. The government continues to monitor Ontario's economic and fiscal situation closely, and will provide details about Ontario's medium-term fiscal plan and outlook in the 2009 Budget."
2009-10	Deterioration	Deterioration	▪ Significant deterioration due to global economic conditions
2010-11	Improvement	Status Quo	▪ "The Province is on track to meet the [medium-term] fiscal targets established in the 2010 Budget."
2011-12	Improvement	Status Quo	▪ Improvement to the in-year deficit, but status quo for out-years. "Despite forecasts of slower economic growth, the Province is on track to meet the fiscal targets laid out in the 2011 Budget."
2012-13	Improvement	Improvement	
2013-14	Status Quo	N/A	▪ Presented in-year update only. Included 2013 Budget path to balance chart, and did not update medium-term outlook. "Ontario continues to face global economic uncertainty, which is holding back economic growth and therefore the outlook for Provincial revenues. In response, the government will drive further savings through an expenditure review… and consider other tools, as necessary, to ensure the deficit is eliminated by 2017-18."
2014-15	Status Quo	Status Quo	▪ "The government projects deficits of…unchanged from the forecast outlined in the 2014 Budget."
2015-16	Improvement	Improvement	▪ "The government is currently projecting deficits of…This reflects an improvement of…compared with the deficit targets laid out in the 2015 Budget"

Starting Point – Revenue Assumptions

- The **revenue outlook has improved** since the 2016 Budget mainly due to:
  - Higher 2015 personal income tax assessments.
  - A moderate improvement in the economic growth outlook.
- These improvements are partially offset by:
  - A lower Equalization payment outlook starting in 2017-18.
  - Updated information and assumptions on federal infrastructure funding.
- There is an unusually broad range of risk (+/- $3.4B) around the revenue forecast that will persist until late in the fiscal year.
  - Risks are evenly balanced around the current outlook.

Current Revenue Changes Since the 2016 Budget $ Billions	2016-17	2017-18	2018-19
June Economic Outlook & Revenue Information	0.6	0.6	0.6
August Update to PIT/OHP Assessments	0.9	1.0	1.1
Equalization Update	-	(0.6)	(0.9)
Canada Health and Social Transfers	0.0	0.1	0.1
Federal Funding – In-Year Approvals	0.5	0.8	0.1
Reverse Federal Infrastructure Funding Assumption	(0.5)	(1.0)	(1.0)
Total Revenue Changes Since 2016 Budget	**1.5**	**0.9**	**0.2**

Starting Point – Total Program Expense Changes in 2016-17

($ Millions)	2016-17
MCYS/MOHLTC: First Nations Health Action Plan	40.4
MCYS: Autism Reform	91.3
EDU: School Renewal Funding	37.6
MNRF: Emergency Forest Firefighting	65.0
MAA/MNRF: Chapleau Cree Stage 2B	0.4
MAA: Priority Initiatives for Indigenous Communities	1.8
MCSS: Child Support Payments Exemption	2.7
OMAFRA: Ontario Corn Fed Beef Market Development Strategy	3.1
MEDEI: Business Growth Initiative - Tranche 1	(10.0)
MMAH: National Disaster Mitigation Program (federal flow-through)	0.9
CO: Anti-Racism Directorate - Request for Additional Resource	2.9
CO: International Disaster Relief Program - Ecuador	0.5
CO: Disaster Relief Funding Fort McMurray Wildfire	0.5
MAA: Transfer of Brant – Burtch Correctional Centre	4.3
MCSS: Provincial Anti Human Trafficking Coordination Office	1.4
MOF: ORPP AC Wind-Up	20.0
MCSCS: Response to Nishnawbe-Aski Police Service Labour Issue	5.6
Various: Green Investment Fund	325.0
ENE: Electricity Mitigation	300.0
MMAH: Investment in Affordable Housing	139.8
MAESD: Post-Secondary Education Strategic Investment Fund	293.1
MEDEI: Clean Water/Wastewater Fund	85.5
Contingency Fund	(592.6)
Total In-Year Approvals	**819.2**

Total In-Year Approvals of $268 million

Total expense approvals associated with federal infrastructure agreements of $518 million

Remaining Risks to be Addressed

$ Billions	2016-17	2017-18	2018-19
2016 Budget Surplus/(Deficit) Targets	**(4.3)**	**0.0**	**0.0**
MMP Bottom of Range Outlook: Changes			
Revenue	1.5	0.9	0.2
Program Expense	3.1	5.9	5.8
Interest on Debt	(0.2)	(0.4)	(0.3)
Total Potential Outlook Changes	**(1.4)**	**(4.6)**	**(5.3)**
Resulting Surplus/(Deficit)	**(5.7)**	**(4.6)**	**(5.3)**
Potential FES Outlook: Changes			
Revenue	(0.2)	–	0.4
Program Expense	(2.2)	(4.4)	(4.7)
Interest on Debt	0.2	(0.3)	(0.3)
Total Potential Outlook Changes	**1.9**	**4.6**	**5.3**
Resulting Surplus/(Deficit)	**(3.8)**	**0.0**	**0.0**

Program expense pressures and potential unfunded initiatives not addressed in the FES fiscal strategy

2016 Budget to Potential FES Outlook

2016 Budget Fiscal Plan $ Billions	16-17	17-18	18-19	Change 16-17	Change 17-18	Change 18-19	Potential FES Outlook 16-17	Potential FES Outlook 17-18	Potential FES Outlook 18-19
Revenue	**130.6**	**137.7**	**141.9**	***1.3***	***0.9***	***0.5***	**131.9**	**138.6**	**142.5**
Expense									
Programs	120.9	122.4	124.1	–	–	–	120.9	122.4	124.1
In-Year Approvals	–	–	–	*0.3*	–	–	0.3	–	–
Green Investment Fund	–	–	–	*0.3*	–	–	0.3	–	–
Electricity Price Mitigation	–	–	–	*0.3*	*0.9*	*0.9*	0.3	0.9	0.9
Investment in Affordable Housing	–	–	–	*0.1*	–	–	0.1	–	–
PSE Strategic Investment Fund	–	–	–	*0.3*	*0.5*	*0.0*	0.3	0.5	0.0
Clean Water/Wastewater Fund	–	–	–	*0.1*	*0.3*	*0.1*	0.1	0.3	0.1
Contingency Fund	1.2	1.7	3.5	*(0.6)*	*(0.3)*	–	0.6	1.4	3.5
Total Programs	**122.1**	**124.2**	**127.6**	***0.8***	***1.5***	***1.1***	**123.0**	**125.7**	**128.7**
Interest on Debt	11.8	12.5	13.1	–	*(0.6)*	*(0.5)*	11.8	11.8	12.6
Total Expense	**133.9**	**136.6**	**140.7**	***0.8***	***0.9***	***0.5***	**134.7**	**137.5**	**141.2**
Reserve	1.0	1.1	1.2	–	–	–	1.0	1.1	1.2
Surplus/(Deficit)	**(4.3)**	**0.0**	**0.0**	***0.5***	***0.0***	***0.0***	**(3.8)**	**0.0**	**0.0**
Net Debt-to-GDP (%)*	39.5	38.8	38.4				39.5	38.9	38.5

*2016 Budget ratios updated for preliminary actual results for 2015-16 and revised 2015 Nominal GDP.

F16: Fiscal 2016-17

2016 Fall Economic Statement: Fiscal Outlook

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Minister briefing
Oct 6, 12-1

Draft – October 6, 2016; 8:45 AM

Purpose

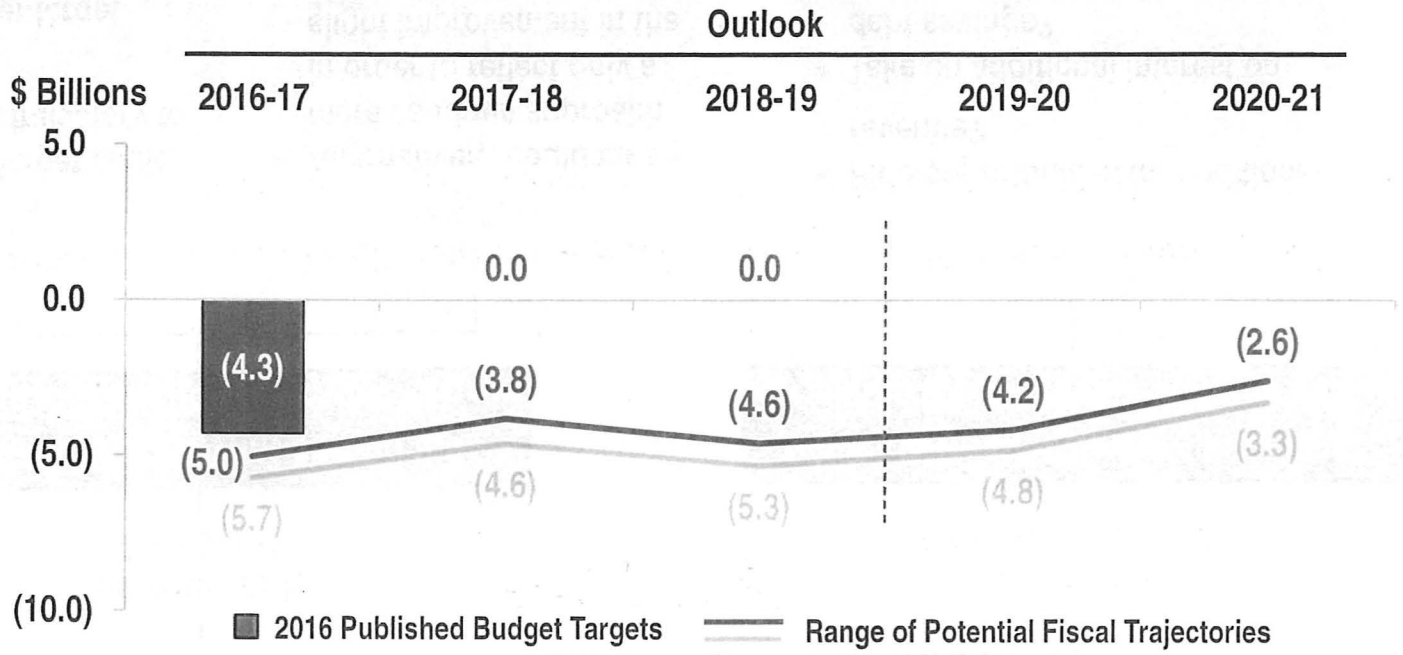
To review and **confirm the fiscal outlook and narrative** for the 2016 Fall Economic Statement.

This presentation includes:

1. A reminder of the current fiscal outlook and risks relative to the 2016 Budget
2. Principles for a starting point from which to determine the FES fiscal update
3. The proposed fiscal outlook and narrative

Current Assessment of Fiscal Outlook and Risks

- The current assessment of available revenue and expense information, risks and pressures indicates a potential range of fiscal trajectories, which **generate a gap relative to the 2016 Budget fiscal targets** in each of 2016-17, 2017-18 and 2018-19.



- **Key decisions will need to be made** to determine the **fiscal outlook for the Fall Economic Statement.**
- The next phase of **fiscal architecture** planning will address the full extent of the risks the government is facing and serve as the foundation for the **2017 Document**.

Key Decision Point: Fiscal Horizon and Content

The government has a number of key decisions to consider for determining the fiscal outlook for the Fall Economic Statement:

Decision Point: Publish an in-year or multi-year fiscal update?

In-Year Only (2016-17)

Decision Point: What should the 2016-17 deficit target be?

Lower Target ($4.0B)

- A lower deficit target could smooth out the trajectory to balance.
- However, a lower target leaves less flexibility in place should in-year savings not be found and the remaining risks and pressures materialize.

Slight Improvement ($4.1B)

- Alternatively, could take a more cautious approach in order to reflect only a slight improvement in the deficit target.
- This would provide more flexibility to deal with in-year pressures and changes that could result from new information.

Multi-Year (2016-17 to 2018-19)

Decision Point: What are the levers available to achieve existing targets?

Potential Levers

- Find opportunities for additional revenue?
- Take on additional interest on debt savings?
- Offset a portion of out-year expense approvals from the contingency fund (e.g. Electricity Price Mitigation)?
- Make marginal adjustments to the reserve?

Principles for Determining a FES Fiscal Outlook

Since the 2016 Budget, **new information has been received and new spending commitments and approvals have been made** that need to be considered for the FES fiscal outlook.

The following **principles inform the FES fiscal outlook**.

Items to Include	Items Deferred to Document/PRRT
✓ The impact on revenue of a stronger ~~2015~~ housing market, the latest ~~2014 and 2015~~ tax assessment information, new federal agreements and slower nominal GDP growth, in part reflecting the Q2 Economic Accounts.	× Updates to overall asset optimization strategy
✓ All minuted TB/MBC expense approvals for 2016-17 (e.g., Hospital Pressures Funding), including contingency fund offsets.	× Variability in the revenue outlook that will remain until the receipt of key information in December and January.
✓ The multi-year impact of spending approvals related to new federal agreements and government decisions with associated legislative changes (e.g., Electricity Price Mitigation).	× The out-year impact of in-year TB/MBC expense approvals, as government direction is for funding to be managed or considered through the PRRT and 2017 Document processes (e.g., First Nations Health Action Plan, Autism and School Board Renewal Funding).
✓ Interest on debt savings in 2016–17, 2017–18, and 2018–19.	× The impact of new policy initiatives that do not have policy or financial approvals and are under consideration, such as Project Momentum – Auto Sector Investments, and additional health funding (e.g., Revised Drug Strategy).

Starting Point Fiscal Outlook

The starting point fiscal outlook produces an improvement in the deficit in 2016-17 and a deterioration of the deficits in 2017-18 and 2018-19, relative to the 2016 Budget targets.

2016 Budget Fiscal Plan $ Billions	16-17	17-18	18-19	Change 16-17	Change 17-18	Change 18-19	Starting Point 16-17	Starting Point 17-18	Starting Point 18-19
Revenue	**130.6**	**137.7**	**141.9**	***1.4***	***0.6***	***0.2***	**132.0**	**138.4**	**142.2**
Expense									
Programs	120.9	122.4	124.1	–	–	–	120.9	122.4	124.1
In-Year Approvals	–	–	–	*0.3*	–	–	0.3	–	–
Child Care Expansion	–	–	–	–	–	–	–	–	–
Hospital Pressures Funding	–	–	–	*0.1*	–	–	0.1	–	–
Green Investment Fund	–	–	–	*0.3*	–	–	0.3	–	–
Electricity Price Mitigation*	–	–	–	*0.3*	*0.9*	*0.9*	0.3	0.9	0.9
Investment in Affordable Housing	–	–	–	*0.1*	–	–	0.1	–	–
PSE Strategic Investment Fund	–	–	–	*0.2*	*0.3*	*0.1*	0.2	0.3	0.1
Clean Water/Wastewater Fund	–	–	–	*0.1*	*0.3*	*0.1*	0.1	0.3	0.1
Contingency Fund	1.2	1.7	3.5	*(0.3)*	–	–	0.9	1.7	3.5
Total Programs	**122.1**	**124.2**	**127.6**	***1.2***	***1.6***	***1.2***	**123.3**	**125.7**	**128.7**
Interest on Debt	11.8	12.5	13.1	*(0.2)*	*(0.4)*	*(0.3)*	11.6	12.1	12.8
Total Expense	**133.9**	**136.6**	**140.7**	***1.0***	***1.2***	***0.9***	**134.9**	**137.8**	**141.6**
Reserve	1.0	1.1	1.2	–	–	–	1.0	1.1	1.2
Surplus/(Deficit)	**(4.3)**	**0.0**	**0.0**	***0.4***	***(0.5)***	***(0.6)***	**(4.0)**	**(0.5)**	**(0.6)**
Net Debt-to-GDP (%)	39.8	39.2	38.8				39.7	39.2	38.9

*Electricity Price Mitigation expense for 2017–18 and 2018–19 is net of Cap and Trade offsets of $60 million per year.

Current revenue outlook

Program expense changes:

- ✓ In-year approvals (including contingency fund offsets)
- ✓ Electricity Price Mitigation, offset by higher revenue
- ✓ Multi-year impact of spending approvals associated with federal agreements

Latest IOD forecast

Gap to address for FES

Potential Approach to FES Outlook

2016-17

The government **could report a $4.0 billion deficit target** for 2016-17, lower than the 2016 Budget target of $4.3 billion.

Alternatively, the government could take a more **cautious approach** to revenue and expense in order to reflect only a slight improvement in the deficit target.

Tools: Reverse the 2016 Budget assumption of unconditional federal home care funding.

Potential Approach to 2016-17 $ Billions	2016-17
Starting Point Surplus/(Deficit)	**(4.0)**
Fiscal Caution	
Reverse Federal Home Care Assumption	(0.2)
Total Fiscal Caution	**(0.2)**
Revised Surplus/(Deficit)	(4.1)

2017-18 and 2018-19

The **starting point produces a fiscal gap** of $0.5 billion in 2017-18 and $0.6 billion in 2018-19. Tools will be required to report the government is maintaining its commitment to balance in 2017-18 and 2018-19.

Potential **Tools** include:

1. **Take on more Interest on Debt savings in 2017-18 and 2018-19**: could result in an inconsistent treatment of interest on debt expense over the 2016-17 to 2018-19 period.
2. **Offset some of Electricity Price Mitigation by drawing down the contingency fund in 2017-18**: Contingency Fund could be drawn down by ~$0.3 billion, leaving a total of $1.4 billion in 2017-18 for compensation and all other expense risks.
3. **Increase projected revenue in 2018-19:** Additional revenue could be linked to expectations around new federal revenue. However, as with the 2016 Budget assumption, in the absence of new federal revenue in this form, other tools may need to be considered to meet this target.

2016 Budget to Potential FES Outlook

Use of tools as part of the FES fiscal strategy could **impact the flexibility the government has to address the broader fiscal gap** as part of PRRT and Document planning.

2016 Budget Fiscal Plan $ Billions	16-17	17-18	18-19	Change 16-17	Change 17-18	Change 18-19	FES Outlook 16-17	FES Outlook 17-18	FES Outlook 18-19
Revenue	**130.6**	**137.7**	**141.9**	***1.2***	***0.6***	***0.6***	**131.8**	**138.4**	**142.5**
Expense									
Programs	120.9	122.4	124.1	–	–	–	120.9	122.4	124.1
In-Year Approvals	–	–	–	*0.3*	–	–	0.3	–	–
Child Care Expansion	–	–	–	–	–	–	–	–	–
Hospital Pressures Funding	–	–	–	*0.1*	–	–	0.1	–	–
Green Investment Fund	–	–	–	*0.3*	–	–	0.3	–	–
Electricity Price Mitigation*	–	–	–	*0.3*	*0.9*	*0.9*	0.3	0.9	0.9
Investment in Affordable Housing	–	–	–	*0.1*	–	–	0.1	–	–
PSE Strategic Investment Fund	–	–	–	*0.2*	*0.3*	*0.1*	0.2	0.3	0.1
Clean Water/Wastewater Fund	–	–	–	*0.1*	*0.3*	*0.1*	0.1	0.3	0.1
Contingency Fund	1.2	1.7	3.5	*(0.3)*	*(0.3)*	–	0.9	1.4	3.5
Total Programs	**122.1**	**124.2**	**127.6**	***1.2***	***1.3***	***1.2***	**123.3**	**125.4**	**128.7**
Interest on Debt	11.8	12.5	13.1	*(0.2)*	*(0.6)*	*(0.5)*	11.6	11.8	12.6
Total Expense	**133.9**	**136.6**	**140.7**	***1.0***	***0.6***	***0.6***	**134.9**	**137.3**	**141.3**
Reserve	1.0	1.1	1.2	–	–	–	1.0	1.1	1.2
Surplus/(Deficit)	**(4.3)**	**0.0**	**0.0**	***0.2***	***(0.0)***	***(0.0)***	**(4.1)**	**0.0**	**0.0**
Net Debt-to-GDP (%)	39.8	39.2	38.8				39.7	39.2	38.8

*Electricity Price Mitigation expense for 2017–18 and 2018–19 is net of Cap and Trade offsets of $60 million per year.

Tools used to:

- Employ a cautious approach to the outlook in 2016-17
- Close the fiscal gap and maintain balance in 2017-18 and 2018-19

2016-17 includes reversal of 2016 Budget assumption of $0.2 billion in unconditional federal transfers for home care.

2018-19 includes new revenue assumptions of $0.4 billion.

Contingency fund drawdown in 2017–18 to offset some of Electricity Price Mitigation

Additional interest on debt savings taken on in the out years

FES Outlook

Considerations for Updating the Fiscal Architecture

- It is important to note that the FES fiscal outlook only addresses immediate reporting requirements and **does not take into account all known revenue and expense risks the government is facing or account for potential information updates to come**.
  - For example, the FES outlook does not address **program expense pressures and potential unfunded initiatives** of up to $1.9 billion in 2016–17, $4.6 billion in 2017–18, and $4.7 billion in 2018–19, related to items such as social assistance forecast pressures and potential rate increases; capital investments; compensation; and funding for service enhancements in the health sector.
  - Instead, these risks, together with potential revenue and expense tools, will need to be addressed as part of the upcoming PRRT and 2017 Document processes.
  - It also does not take into account the potential impact of the **change in pension asset accounting treatment** reported in the 2015-16 Public Accounts.
- With respect to the tools used:
  - Increasing projected revenue in 2018-19 **may require other tools to meet this target** in the absence of new unconditional federal revenue.
  - Offsetting some of Electricity Price Mitigation by drawing down the contingency fund in 2017-18 by $0.3 billion, **leaves a total of $1.4 billion for compensation and all other expense risks**.
  - Taking on **more interest on debt savings** in 2017-18 and 2018-19 may **limit flexibility** for the 2017 Document.

Potential FES Fiscal Narrative

- The government is dedicated to a fiscally sound approach to managing the Province's finances. This will help grow the economy, create jobs, and ensure the sustainability of programs and services that help Ontarians in their everyday lives.
- An important aspect of the government's fiscal approach is its commitment to balance the budget in 2017–18. [Achieving balance will also put net-debt-to-GDP on a declining track and support the Province's commitment to return to pre-recession levels.]
- The government is sharing the benefits of Ontario's economic growth and its responsible approach to fiscal management by investing in things that matter most and that help Ontarians in their everyday lives, such as electricity rate relief to Ontario consumers, health care, and opening up additional child care spaces.
    - The government is committed to creating **100,000 new licensed child care spaces** within the next five years to help more working families in Ontario access quality, affordable child care. In this Document, the government is taking immediate action to move forward on this commitment by announcing a $39 million capital investment for the [current] 2016-17 school year to help support the availability of an additional 1,300 spaces in schools beginning in September 2017.
- With the economy expected to continue to grow, and the Province's ongoing commitment to transform government programs and services, Ontario is well positioned for fiscal sustainability.
- Looking forward, the government is projecting a **deficit of $4.1 billion in 2016–17, a return to balance in 2017–18, and continued balance in 2018–19.** In 2016–17, this reflects an improvement of $0.2 billion compared with the deficit target projected in the *2016 Budget*.

Given the government will be reviewing various tools to help close the gap between FES and the 2017 Document, the FES fiscal narrative may need to foreshadow potential actions. For example, this could include statements such as:

"The government is committed to protecting the gains made through prudent fiscal management and the strengthening of Ontario's economy, and will consider other potential tools to ensure Ontario can achieve fiscal sustainability while protecting the programs and services Ontarians rely on in their everyday lives."

Summary of Key Decisions

Fiscal Horizon and Detail

- Whether to provide an in-year update (2016-17 only) or a full multi-year update.
- Whether to provide a summary fiscal update or details by sector.

Fiscal Reporting Choices

- Whether to maintain 2016-17 deficit target or begin to show slight improvement.
  - If maintain target, what assumptions underpin this target?
- For out-years, how to report the funding of key initiatives such as the electricity mitigation rebate while still showing on track to balance.

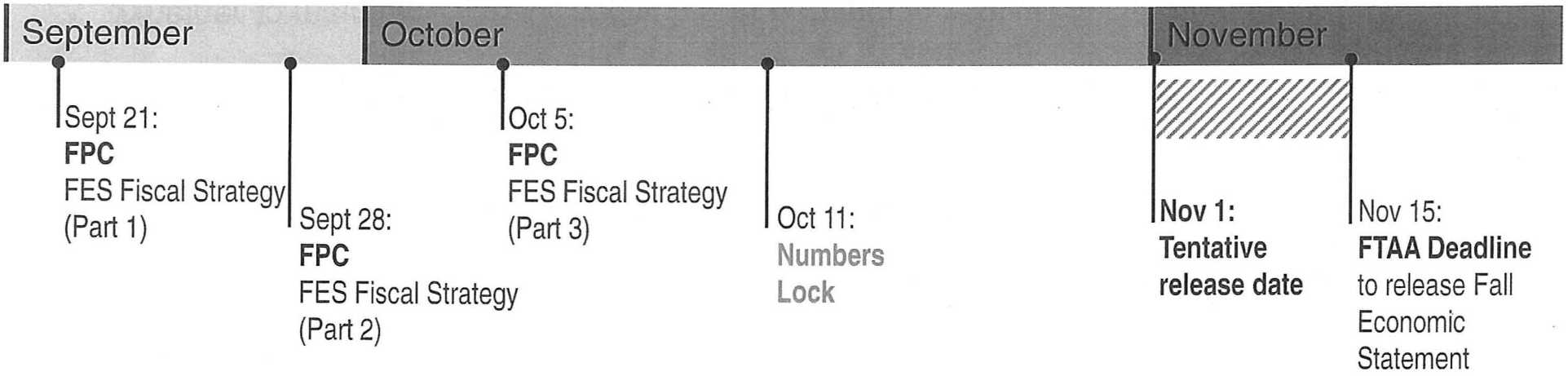
Fiscal Narrative

- Whether to use the FES fiscal narrative to foreshadow tools or other fiscal architecture choices the government may want to take on as part of the 2017 Document.

Next Steps & Timeline

Next Steps

- October 11: To ensure adequate time to complete, review and print the document, **"numbers lock"** needs to occur three weeks before the release date.
- Once FES fiscal outlook is finalized, begin initial fiscal architecture discussions for the 2017 Document.



Appendix

Analysis of Previous Fall Economic Statements

Published Deficit Comparisons – Budget to FES

Fiscal year of FES	In-Year	Medium-Term	Notes/Supporting Language
2003-04	Deterioration	Deterioration	
2004-05	Improvement	Status Quo	▪ "The government's deficit targets for the medium term are unchanged, culminating in a balanced budget in 2007-08"
2005-06	Improvement	Status Quo	▪ "Consistent with the medium-term fiscal plan outlined in the 2005 Budget..."
2006-07	Improvement	Deterioration	▪ Plan-year consistent with Q1 finances, deteriorated out-year deficits due to softer economic growth (revenue).
2007-08	Improvement	Deterioration	▪ Instead of small surpluses (as published during the Budget), shifted down to "balance" in out-years in light of the "slower economic growth outlook"
2008-09	Deterioration	N/A	▪ Presented in-year details only. "Given global economic uncertainty, the government's immediate priority is to provide a fiscal update for 2008-09. The government continues to monitor Ontario's economic and fiscal situation closely, and will provide details about Ontario's medium-term fiscal plan and outlook in the 2009 Budget."
2009-10	Deterioration	Deterioration	▪ Significant deterioration due to global economic conditions
2010-11	Improvement	Status Quo	▪ "The Province is on track to meet the [medium-term] fiscal targets established in the 2010 Budget."
2011-12	Improvement	Status Quo	▪ Improvement to the in-year deficit, but status quo for out-years. "Despite forecasts of slower economic growth, the Province is on track to meet the fiscal targets laid out in the 2011 Budget."
2012-13	Improvement	Improvement	
2013-14	Status Quo	N/A	▪ Presented in-year update only. Included 2013 Budget path to balance chart, and did not update medium-term outlook. "Ontario continues to face global economic uncertainty, which is holding back economic growth and therefore the outlook for Provincial revenues. In response, the government will drive further savings through an expenditure review... and consider other tools, as necessary, to ensure the deficit is eliminated by 2017-18."
2014-15	Status Quo	Status Quo	▪ "The government projects deficits of...unchanged from the forecast outlined in the 2014 Budget."
2015-16	Improvement	Improvement	▪ "The government is currently projecting deficits of...This reflects an improvement of...compared with the deficit targets laid out in the 2015 Budget"

Starting Point – Details of Program Expense Changes in 2016-17

($ Millions)	2016-17
MCYS/MOHLTC: First Nations Health Action Plan	40.4
MCYS: Autism Reform	91.3
EDU: School Renewal Funding	37.6
MNRF: Emergency Forest Firefighting	65.0
MAA/MNRF: Chapleau Cree Stage 2B	0.4
MAA: Priority Initiatives for Indigenous Communities	1.8
MCSS: Child Support Payments Exemption	2.7
OMAFRA: Ontario Corn Fed Beef Market Development Strategy	3.1
MEDEI: Business Growth Initiative - Tranche 1	(10.0)
MMAH: National Disaster Mitigation Program (federal flow-through)	0.9
CO: Anti-Racism Directorate - Request for Additional Resource	2.9
CO: International Disaster Relief Program - Ecuador	0.5
CO: Disaster Relief Funding Fort McMurray Wildfire	0.5
MCSS: Provincial Anti Human Trafficking Coordination Office	1.4
MOF: ORPP AC Wind-Up	20.0
MOHLTC: Hospital Pressures Funding	140.3
Various: Green Investment Fund	325.0
ENE: Electricity Price Mitigation	300.0
MMAH: Investment in Affordable Housing	139.8
MAESD: Post-Secondary Education Strategic Investment Fund	197.8
MEDEI: Clean Water/Wastewater Fund	85.4
Contingency Fund	(257.7)
Total In-Year Approvals	**1,189.2**

Total In-Year Approvals of $259 million – no out-year impacts taken on

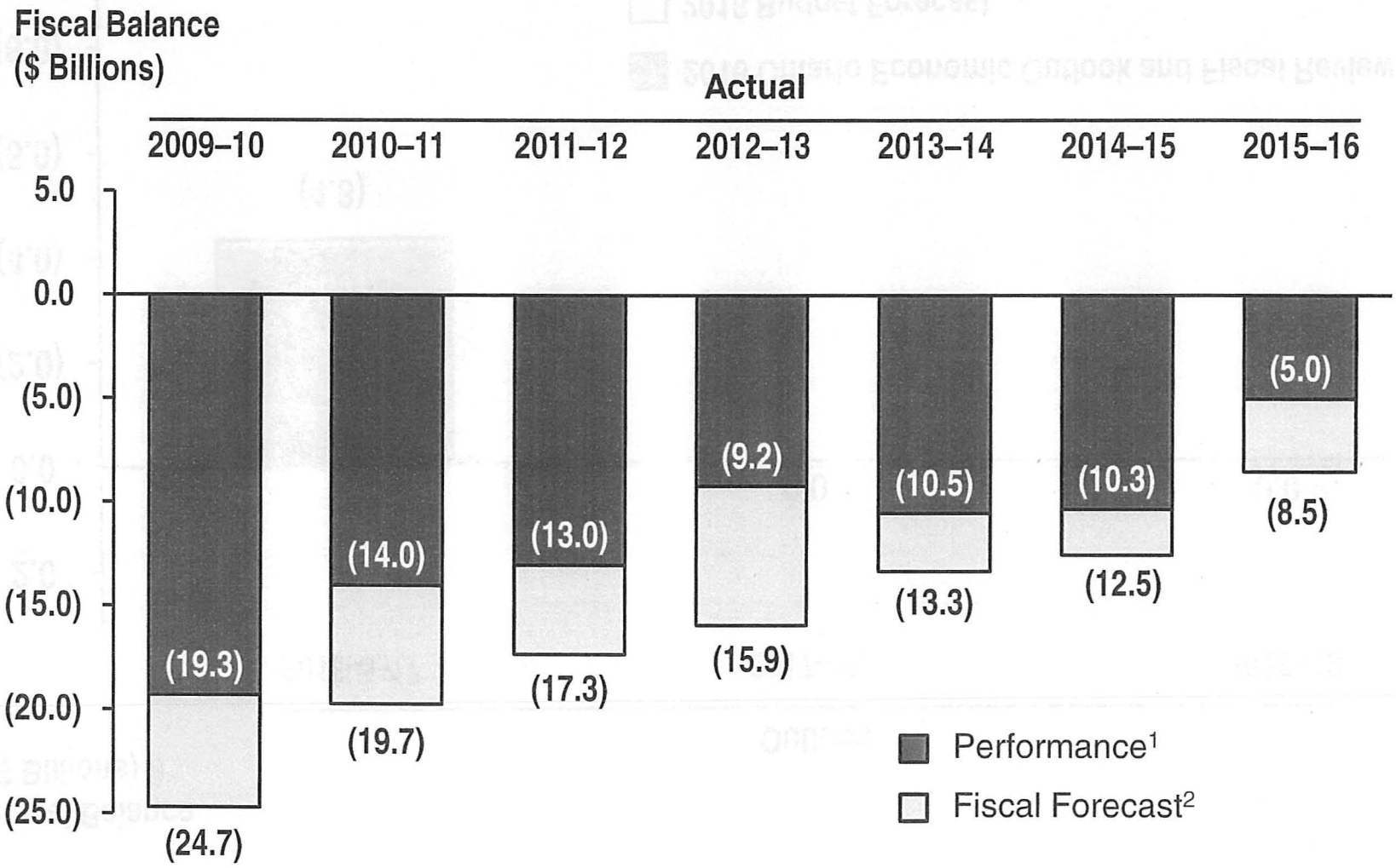
Total expense approvals associated with federal infrastructure agreements of $423 million

Remaining Risks to be Addressed

$ Billions	2016-17	2017-18	2018-19
2016 Budget Surplus/(Deficit) Targets	**(4.3)**	**0.0**	**0.0**
MMP Bottom of Range Outlook: Changes			
Revenue	1.5	0.9	0.2
Program Expense	3.1	5.9	5.8
Interest on Debt	(0.2)	(0.4)	(0.3)
Total Potential Outlook Changes	**(1.4)**	**(4.6)**	**(5.3)**
Resulting Surplus/(Deficit)	**(5.7)**	**(4.6)**	**(5.3)**
Potential FES Outlook: Changes			
Revenue	(0.2)	(0.2)	0.4
Program Expense	(1.9)	(4.6)	(4.7)
Interest on Debt	–	(0.3)	(0.3)
Total Potential Outlook Changes	**1.6**	**4.6**	**5.3**
Resulting Surplus/(Deficit)	**(4.1)**	**0.0**	**0.0**

Program expense pressures and potential unfunded initiatives not addressed in the FES fiscal strategy

Ontario's Record Against Deficit Targets

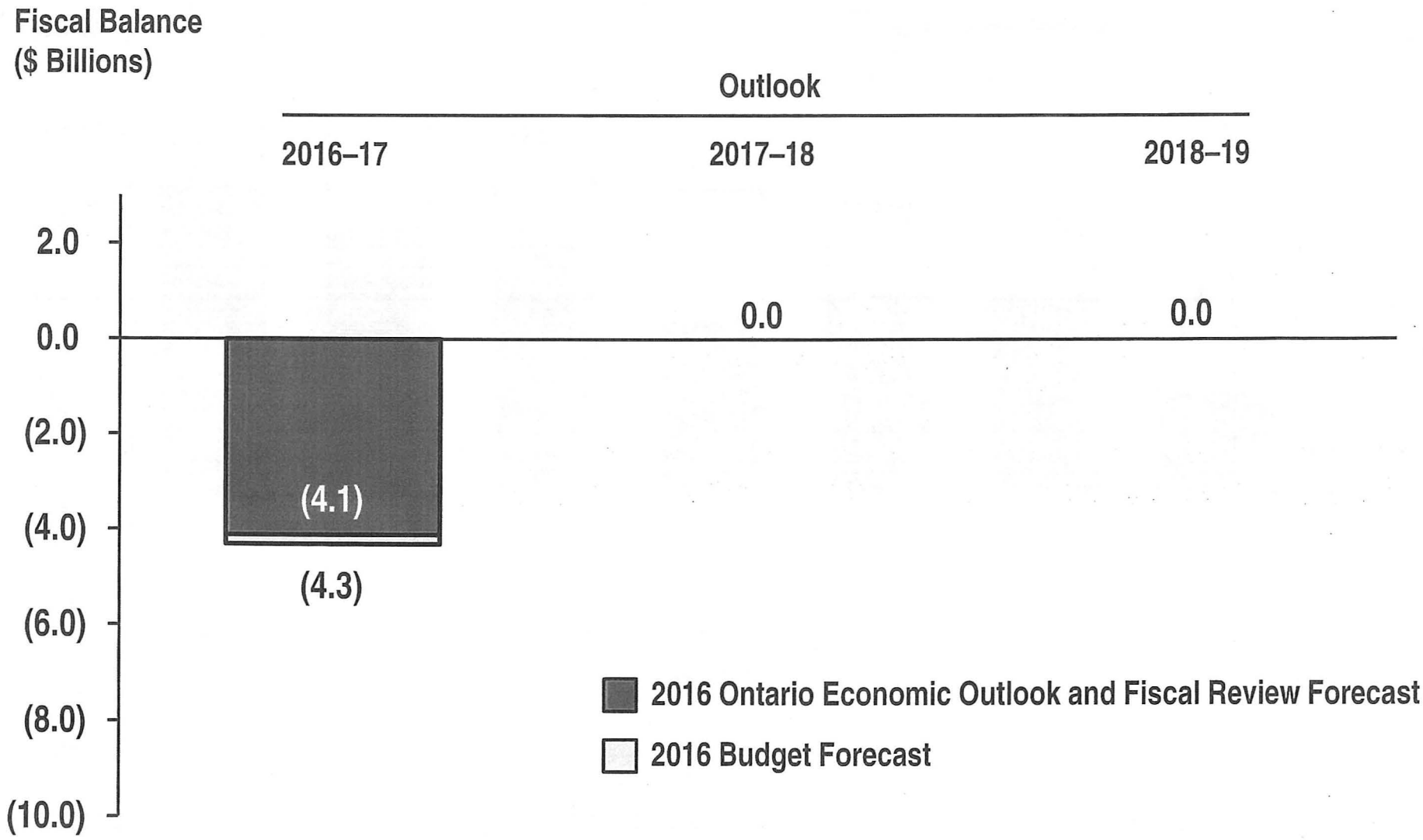


[1] For 2009–10 to 2015–16, actual results are presented.

[2] Forecast for 2009–10 is based on the *2009 Ontario Economic Outlook and Fiscal Review*, 2010–11 to 2013–14 is based on the *2010 Budget*; 2014–15 is based on the *2014 Budget*; and 2015–16 is based on the *2015 Budget*.

Source: Ontario Ministry of Finance.

Ontario's Plan to Eliminate the Deficit



Source: Ontario Ministry of Finance.

The FES Fiscal Outlook

Ontario's Medium-Term Fiscal Plan and Outlook
($ Billions)

	Actual 2015–16	Current Outlook 2016–17	Medium-Term Outlook 2017–18	Medium-Term Outlook 2018–19
Revenue	**128.4**	**131.8**	**138.4**	**142.5**
Expense				
Programs	122.4	123.3	125.4	128.7
Interest on Debt	11.0	11.6	11.8	12.6
Total Expense	**133.4**	**134.9**	**137.3**	**141.3**
Surplus/(Deficit) Before Reserve	**(5.0)**	**(3.1)**	**1.1**	**1.2**
Reserve	–	1.0	1.1	1.2
Surplus/(Deficit)	**(5.0)**	**(4.1)**	**0.0**	**0.0**

Note: Numbers may not add due to rounding.

2016-17 In-Year Fiscal Update
($ Millions)

	Budget Plan	Current Outlook	In-Year Change
Revenue	**130,589**	**131,821**	**1,232**
Expense			
Programs	122,139	123,329	1,189
Interest on Debt	11,756	11,601	(155)
Total Expense	**133,895**	**134,930**	**1,034**
Reserve	1,000	1,000	–
Surplus/(Deficit)	**(4,306)**	**(4,109)**	**198**

Note: Numbers may not add due to rounding.

File: Fiscal 2016-17

2016 Fall Economic Statement:
Fiscal Outlook

Office of the Budget
MINISTRY of FINANCE

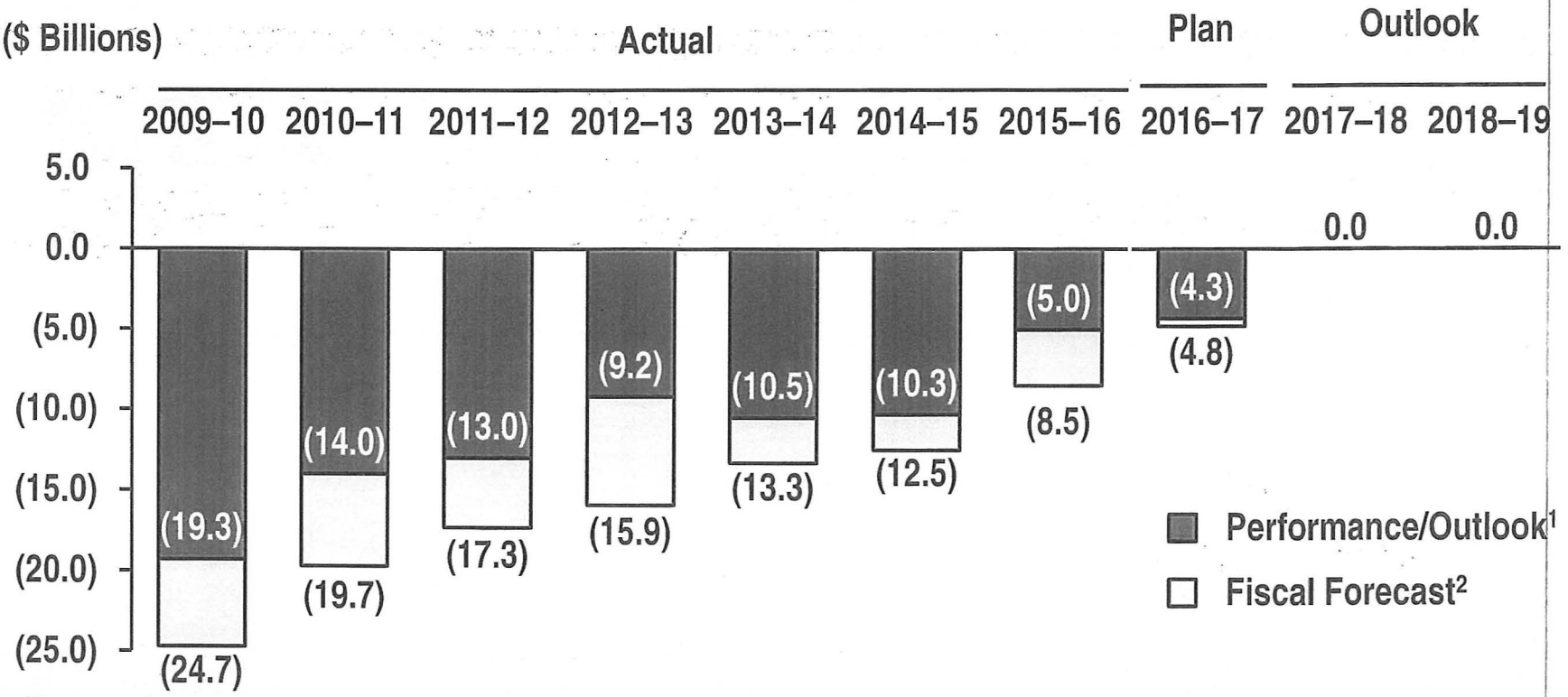
Preliminary Draft – All Numbers To Be Confirmed and are Subject to Change

Draft – October 25, 2016 2:45 PM

Minister Briefing
Oct. 25

Plan to Eliminate the Deficit

- The government is projecting a deficit of $4.3 billion in 2016–17, a return to balance in 2017–18, and continued balance in 2018–19, consistent with the 2016 Budget.
- In October, the *Public Accounts of Ontario 2015–16* reported that the 2015–16 deficit was $5.0 billion, an improvement of $3.5 billion from the $8.5 billion projection in the 2015 Budget. This marked the seventh year in a row that Ontario has beaten its annual deficit target.
- The current fiscal outlook accounts for strategic investments in new childcare spaces, hospitals, and the HST rebate on electricity costs, as well as a change in pension asset accounting.



[1] Represents the *2016 Ontario Economic Outlook and Fiscal Review,* outlook for 2016–17 to 2018–19. For 2009–10 to 2015–16, actual results are presented.

[2] Forecast for 2009–10 is based on the *2009 Ontario Economic Outlook and Fiscal Review,* 2010–11 to 2013–14 is based on the *2010 Budget*; 2014–15 is based on the *2014 Budget*; and 2015–16 to 2016–17 is based on the *2015 Budget.*

Source: Ontario Ministry of Finance.

2016 FES Fiscal Outlook

Ontario's Medium-Term Fiscal Plan and Outlook
$ Billions

	Actual 2014-15	Actual 2015-16	Plan 2016–17	Outlook 2017–18	Outlook 2018–19	Avg. Ann. Growth 2014-15 to 2018-19
Revenue	**118.5**	**128.4**	**132.7**	**140.1**	**144.9**	**5.1%**
annual growth	*2.3%*	*8.3%*	*3.4%*	*5.6%*	*3.4%*	
Expense						
Programs	118.2	122.4	125.3	127.7	131.7	**2.7%**
annual growth	*2.1%*	*3.6%*	*2.3%*	*1.9%*	*3.1%*	
Interest on Debt	10.6	11.0	11.4	11.7	12.4	3.9%
annual growth	*0.6%*	*3.1%*	*3.7%*	*2.9%*	*6.0*	
Total Expense	**128.9**	**133.4**	**136.6**	**139.4**	**144.1**	**2.8%**
annual growth	*2.0%*	*3.5%*	*2.4%*	*2.0%*	*3.4%*	
Reserve	-	-	0.4	0.7	0.8	
Surplus/(Deficit)	**(10.3)**	**(5.0)**	**(4.3)**	**0.0**	**0.0**	
Net Debt as a per cent of GDP (%)	**39.4**	**40.9**	**41.1**	**40.5**	**40.1**	

In the 2016 Budget, revenue was projected to grow at an average annual rate of 4.6 per cent between 2014-15 and 2018-19

In the 2016 Budget, program expense was projected to grow at an average annual rate of 1.9 per cent between 2014-15 and 2018-19.

☐ **Not published in the 2016 FES**

Fiscal Outlook: Change from 2016 Budget

2016 Budget Fiscal Plan					Change to FES			FES Outlook		
$ Billions		15-16	16-17	17-18	18-19	16-17	17-18	18-19	16-17	17-18	18-19
Revenue		**128.4**	**130.6**	**137.7**	**141.9**	*2.1*	*2.4*	*3.0*	**132.7**	**140.1**	**144.9**
	annual growth	*8.3%*	*1.7%*	*5.5%*	*3.0%*				*3.4%*	*5.6%*	*3.4%*
Expense											
Programs		122.4	122.1	124.2	127.6	*3.1*	*3.5*	*4.1*	125.3	127.7	131.7
	annual growth	*3.6%*	*-0.2%*	*1.7%*	*2.8%*				*2.3%*	*1.9%*	*3.1%*
Interest on Debt		11.0	11.8	12.5	13.1	*(0.4)*	*(0.8)*	*(0.7)*	11.4	11.7	12.4
	annual growth	*3.1%*	*7.2%*	*5.9%*	*5.3%*				*3.7%*	*2.9%*	*6.0%*
Total Expense		**133.4**	**133.9**	**136.6**	**140.7**	*2.7*	*2.8*	*3.4*	**136.6**	**139.4**	**144.1**
	annual growth	*3.5%*	*0.4%*	*2.0%*	*3.0%*				*2.4%*	*2.0%*	*3.4%*
Surplus/(Deficit) Before Reserve		**(5.0)**	**(3.3)**	**1.1**	**1.2**	*(0.6)*	*(0.4)*	*(0.4)*	**(3.9)**	**0.7**	**0.8**
Reserve		–	1.0	1.1	1.2	*(0.6)*	*(0.4)*	*(0.4)*	0.4	0.7	0.8
Surplus/(Deficit)		**(5.0)**	**(4.3)**	**0.0**	**0.0**	*(0.0)*	*0.0*	*(0.0)*	**(4.3)**	**0.0**	**0.0**
Net Debt-to-GDP (%)*		***40.9***	***40.8***	***40.1***	***39.7***				***41.1***	***40.5***	***40.1***

* Includes impact of carrying forward net debt change from 2015-16 Public Accounts.

In-Year Fiscal Update

2016-17 In-Year Fiscal Update
($ Millions)

	Budget Plan	Current Outlook	In-Year Change
Revenue	130,589	132,721	2,132
Expense			
Programs	122,139	125,268	3,129
Interest on Debt	11,756	11,375	(381)
Total Expense	**133,895**	**136,643**	**2,748**
Reserve	1,000	400	(600)
Surplus/(Deficit)	**(4,306)**	**(4,322)**	**(17)**

Note: Numbers may not add due to rounding.

Total Revenue: Change from Budget

$ Billions	2016 Budget 15-16	16-17	17-18	18-19	Change 16-17	17-18	18-19	Current Outlook 16-17	17-18	18-19	Avg. Ann. 14-15 to 18-19
Revenue											
Taxation Revenue	91.8	91.8	95.9	100.2	2.0	2.3	2.8	93.8	98.2	103.0	5.8%
annual growth	*11.6%*	*0.0%*	*4.5%*	*4.4%*				*2.2%*	*4.7%*	*4.9%*	
Gov't. of Canada	22.9	24.6	25.8	26.6	(0.2)	(0.2)	(0.2)	24.5	25.6	26.4	5.1%
annual growth	*5.7%*	*7.8%*	*4.7%*	*3.0%*				*7.0%*	*4.7%*	*3.1%*	
GBEs	4.9	5.0	5.3	5.7	0.2	0.2	0.2	5.2	5.5	5.9	1.3%
annual growth	*-12.6%*	*2.4%*	*6.3%*	*6.9%*				*6.5%*	*6.1%*	*6.6%*	
Other Non-Tax Rev.	8.8	9.1	10.6	9.4	0.1	0.1	0.1	9.2	10.7	9.5	1.4%
annual growth	*-2.7*	*3.5%*	*17.0%*	*-11.3%*				*4.6%*	*16.8%*	*-11.2%*	
Total Revenue	**128.4**	**130.6**	**137.7**	**141.9**	2.1	2.4	3.0	**132.7**	**140.1**	**144.9**	**5.1%**
annual growth	*8.3%*	*1.7%*	*5.5%*	*3.0%*				*3.4%*	*5.6%*	*3.4%*	

Total Expense: Change from Budget

2016 Budget					Change			Current Outlook			Avg. Ann.
$ Billions	15-16	16-17	17-18	18-19	16-17	17-18	18-19	16-17	17-18	18-19	14-15 to 18-19
Expense Programs											
Programs	122.4	121.7	123.4	125.1	–	–	–	121.7	123.4	125.1	
Pensions Adjustment	–	–	–	–	2.2	2.8	3.7	2.2	2.8	3.7	
Other Net Programs*	–	0.4	0.7	2.5	0.9	0.8	0.4	1.3	1.5	2.8	
Total Programs	**122.4**	**122.1**	**124.2**	**127.6**	3.1	3.5	4.1	**125.3**	**127.7**	**131.7**	**2.7%**
annual growth	*3.6%*	*-0.2%*	*1.7%*	*2.8%*				*2.3%*	*1.9%*	*3.1%*	
Interest on Debt	11.0	11.8	12.5	13.1	(0.4)	(0.8)	(0.7)	11.4	11.7	12.4	**3.9%**
Total Expense	**133.4**	**133.9**	**136.6**	**140.7**	2.7	2.8	3.4	**136.6**	**139.4**	**144.1**	**2.8%**
annual growth	*3.5%*	*0.4%*	*2.0%*	*3.0%*				*2.4%*	*2.0%*	*3.4%*	

* Includes all in-year approvals, new federal agreements, the Contingency Fund as well as the Year End Savings Targets.

Appendix

Recent Developments: Change in Pension Asset Accounting

- The 2015-16 Public Accounts reported results based on a time-limited legislated change to pension asset accounting. The change resulted in a revised final actual deficit for 2015-16 – from $3.5 billion to $5.0 billion.
- The forecast of the potential fiscal impact presented below is based on an actuarial assessment at the end of Jan. 2016. It is subject to change based on economic/demographic factors, other new information, and potential changes to future agreements with plan sponsors (incl. on how the pension surpluses can be used).
- The historical net fiscal impact of the accounting change on the deficit averages $1.5 billion over the last five years, and $1.3 billion over the last 10 years*.
- The annual impact of pension expense on the fiscal plan has also tended to consistently vary from Budget forecast to subsequent updates – meaning these estimates are subject to change (increase or decrease).

Preliminary Estimate of Potential Impact on Fiscal Plan of Change in Pension Asset Accounting Treatment ($ Millions)

		Actual	Plan	Medium Term Outlook	
		2015-16	2016-17	2017-18	2018-19
A	**Forecasted as part of 2016 Budget**				
	Teachers' Pension Plan Expense/(Surplus)	110	(452)	(820)	(1,110)
	Other Pension Plans**	1,114	953	818	792
B	**Revised Forecast with Change in Pension Assets Treatment**				
	Teachers' Pension Plan Expense	1,590	1,671	1,739	1,800
	Other Pension Plans**	1,148	1,069	1,035	1,625
C=B-A	**Potential Pressure on Fiscal Plan**				
	Teachers' Pension Plan Expense	*1,480*	*2,123*	*2,559*	*2,910*
	*Other Pension Plans***	*34*	*116*	*217*	*833*
	Total Potential Pressure on the Fiscal Plan	***1,514***	***2,240***	***2,775***	***3,744***

* Average 10 year impact was calculated excluding fiscal 2008-09. 2008-09 was an outlier as result of the 2008 financial crisis.

** Includes OPSEU Pension Plan Expense, Health Care of Ontario Pension Plan (HOOPP), and Colleges of Applied Arts and Technology Pension Plan (CAATPP)

Note: CAATPP and HOOPP is forecasted to reach the asset position by 2016-17 and 2017-18 based on the respected expected long-term investment return of the plans. However, if actual investment return performance is better than the long-term expected return, these plans may reach asset position earlier.

Total Expense: Change from Budget

2016 Budget					Change			Current Outlook			Avg. Ann.
$ Billions	15-16	16-17	17-18	18-19	16-17	17-18	18-19	16-17	17-18	18-19	14-15 to 18-19
Expense Programs											
Programs	122.4	121.7	123.4	125.1	–	–	–	121.7	123.4	125.1	
In-Year Approvals and Federal Agreements	–	–	–	–	1.4	1.6	1.2	1.4	1.6	1.2	
Pensions Adjustment	–	–	–	–	2.2	2.8	3.7	2.2	2.8	3.7	
Contingency Fund	–	1.2	1.7	3.5	(0.5)	(0.6)	(0.6)	0.7	1.1	2.9	
Y/E Savings Target	–	(0.8)	(1.0)	(1.0)	–	(0.2)	(0.2)	(0.8)	(1.2)	(1.2)	
Total Programs	**122.4**	**122.1**	**124.2**	**127.6**	3.1	3.5	4.1	**125.3**	**127.7**	**131.7**	2.7%
annual growth	*3.6%*	*-0.2%*	*1.7%*	*2.8%*				*2.3%*	*1.9%*	*3.1%*	
Interest on Debt	11.0	11.8	12.5	13.1	(0.4)	(0.8)	(0.7)	11.4	11.7	12.4	
Total Expense	**133.4**	**133.9**	**136.6**	**140.7**	2.7	2.8	3.4	**136.6**	**139.4**	**144.1**	2.8%
annual growth	*3.5%*	*0.4%*	*2.0%*	*3.0%*				*2.4%*	*2.0%*	*3.4%*	

Tools Included in the 2016 FES Fiscal Outlook

The following key tools have now been included in the current fiscal outlook, to accommodate both investment commitments by the government and the potential impact of the change in pension asset accounting, resulting in a deficit of $4.3 billion in 2016-17, and balance in 2017-18 and 2018-19.

$ Billions	2016-17	2017-18	2018-19
Revenue Tools			
• Federal transfers: changes to federal transfer assumptions for infrastructure and equalization)	–	700	1,460
• Government Business Enterprises: more aggressive forecasts for OLG and LCBO	200	200	200
• Recoveries of Prior Years' Expenditures	100	100	100
• CIT: assume stronger increases in the tax base	300	460	670
• HST: assume delayed impact of 2015 revenues related to housing completions, reduce 2016-17 housing-related shortfall, and assume higher revenues related to past year revenue pools	300	300	300
Total Revenue Tools	**900**	**1,760**	**2,730**
Potential Selection of Expense Tools			
• Contingency Fund Drawdown	300	581	600
• Increase year-end savings target	–	200	200
• Take on additional interest on debt savings	381	753	707
Expense Tools	**681**	**1,534**	**1,507**
Changes to the Reserve	**600**	**400**	**400**
Total Tools	**2,181**	**3,694**	**4,637**

2016 Fall Economic Statement Fiscal Outlook – Option 3

OPTION 3 - MMP
Tools to Accommodate the Full Impact

$ Billions	Actual 2015-16	Plan 2016-17	Outlook 2017-18	2018-19
Revenue	128.4	132.6	140.0	145.1
Expense				
Programs	122.4	123.2	125.0	126.3
Pensions Adjustment	–	2.2	2.8	3.7
Contingency Fund	–	0.7	1.1	3.2
Year-End Savings Target	–	(0.8)	(1.2)	(1.2)
Interest on Debt	11.0	11.5	11.7	12.4
Total Expense	**133.4**	**136.9**	**139.4**	**144.4**
Surplus/(Deficit) before Reserve	**(5.0)**	**(4.3)**	**0.6**	**0.7**
Reserve	–	0.5	0.6	0.7
Surplus/(Deficit)	**(5.0)**	**(4.8)**	**0.0**	**0.0**

Option 3 Tools

$ Millions	2016-17	2017-18	2018-19
Tools to Achieve FES Outlook			
Increase Federal Transfers (Equalization)	-	-	360
Contingency Fund	-	281	-
Interest on Debt	155	626	539
Total Tools to Achieve FES Outlook	**155**	**908**	**900**
Tools to Accommodate Full Impact			
Revenue Tools			
Government Business Enterprises	200	200	200
Recoveries	100	100	100
Federal Transfers	-	700	1,400
CIT	135	360	570
HST	300	300	300
Total Revenue Tools	**735**	**1,660**	**2,570**
Expense Tools			
Contingency Fund	200	300	300
Year-End Savings Target	-	200	200
Interest on Debt	101	127	168
Total Expense Tools	**301**	**627**	**668**
Deficit Forecast Adjustment	**704**	**-**	**-**
Reserve	500	500	500
Total Tools to Accommodate Full Impact	**2,240**	**2,787**	**3,738**
Total Option 3 Tools	**2,395**	**3,694**	**4,637**

OPTION 3 – MMI
Tools to Accomm

$ Billions	2
Revenue	
Expense	
Programs	
Pensions Adjustment	
Contingency Fund	
Year-End Savings Target	
Interest on Debt	
Total Expense	
Surplus/(Deficit) before Reserve	
Reserve	
Surplus/(Deficit)	

Option 3 Tools

$ Millions
Tools to Achieve FES Outlook
Increase Federal Transfers (Equaliz
Contingency Fund
Interest on Debt
Total Tools to Achieve FES Outlool
Tools to Accommodate Full Impact
Revenue Tools
Government Business Enterprises
Recoveries
Federal Transfers
CIT
HST
Total Revenue Tools
Expense Tools
Contingency Fund
Year-End Savings Target
Interest on Debt
Total Expense Tools
Deficit Forecast Adjustment
Reserve
Total Tools to Accommodate Full I
Total Option 3 Tools

REVISED TOOLS)
ate the Full Impact

ual 16	Plan 2016-17	Outlook 2017-18	2018-19
3.4	132.7	140.1	144.9
2.4	123.2	125.0	126.3
–	2.2	2.8	3.7
–	0.6	1.1	2.9
–	(0.8)	(1.2)	(1.2)
1.0	11.4	11.7	12.4
3.4	**136.6**	**139.4**	**144.1**
.0)	**(3.9)**	**0.7**	**0.8**
–	0.4	0.7	0.8
.0)	**(4.3)**	**0.0**	**0.0**

	2016-17	2017-18	2018-19
)	-	-	360
	-	281	-
	155	626	539
	155	**908**	**900**
	200	200	200
	100	100	100
	-	700	1,100
	300	460	670
	300	300	300
	900	**1,760**	**2,370**
	300	300	600
	-	200	200
	226	127	168
	526	**627**	**968**
	214	**-**	**-**
	600	400	400
:t	**2,240**	**2,787**	**3,738**
	2,395	**3,694**	**4,637**

OPTION 3
Narrative and Challenges/Risks

Fiscal Narrative

- The government is projecting a deficit of $4.3 billion in 2016–17, a return to balance in 2017–18, and continued balance in 2018–19, consistent with the 2016 Budget.
- This includes investing to help grow the economy, create jobs, and ensure the sustainability of programs and services that help Ontarians in their everyday lives.
- It also accommodates the Auditor General's new interpretation of accounting policy for pension assets.
- The government is achieving its fiscal objectives while sharing the benefits of Ontario's economic growth and its responsible approach to fiscal management by investing in things that matter most to Ontarians.
- This includes electricity cost relief to Ontario consumers, investments in hospitals, and taking early action to increase the number of child care spaces.
- As part of its planning for the 2017 Document, the government will continue to support the Ontario economy and invest in priority areas in a fiscally sustainable way. An updated account of the fiscal plan will be provided in the 2017 Budget.

Key Narrative Challenges and Risks

- Could lead to questions about whether new investments will be made from the fiscal room created if the advice from the panel results in a different accounting treatment outcome.
- May lead to assertions that revenue forecast has been artificially increased to accommodate the change in the pension asset accounting, given forecasts for less optimistic economic growth for Ontario.
- Could lead to questions on how the reserve is being used and whether there is enough prudence in the fiscal plan should there be additional pressures that have not already been accounted for and given the contingency fund has also been drawn down.

File: Fiscal 2016-17

2016 Fall Economic Statement: Reporting Considerations Related to 2015-16 Accounting Treatment of Pensions

Office of the Budget
MINISTRY of FINANCE

Draft – October 4, 2016 5:45 PM

Preliminary Estimate of Potential Impact of Change in Pension Asset Accounting

- The forecast below, which is based on an actuarial assessment at the end of January 2016, is subject to change based on economic and demographic factors, other new information, and potential changes to future agreements with plan sponsors (including on how the pension surpluses can be used).

Preliminary Estimate of Potential Impact on Fiscal Plan of Change in Pension Asset Accounting Treatment ($ Millions)

	Actual	Plan	Medium Term Outlook	
	2015-16	2016-17	2017-18	2018-19
Forecasted as part of 2016 Budget				
Teachers' Pension Plan Expense (Surplus)	110	(452)	(820)	(1,110)
OPSEU Pension Plan Expense	177	135	98	89
Healthcare of Ontario Pension Plan (HOOPP)	747	631	548	537
Colleges of Applied Arts and Technology Pension Plan (CAATPP)	190	187	172	166
Revised Forecast if Change in Pension Assets Treatment				
Teachers' Pension Plan Expense	1,590	1,672	1,738	1,800
OPSEU Pension Plan Expense	211	229	234	241
Healthcare of Ontario Pension Plan (HOOPP)	747	631	1,058	1,120
Colleges of Applied Arts and Technology Pension Plan (CAATPP)	190	224	242	262
Potential Pressure on Fiscal Plan				
Teachers' Pension Plan Expense	1,480	2,124	2,558	2,910
OPSEU Pension Plan Expense	34	94	136	152
Healthcare of Ontario Pension Plan (HOOPP)	-	-	510	583
Colleges of Applied Arts and Technology Pension Plan (CAATPP)	-	37	70	96
Total Potential Pressure on the Fiscal Plan	**1,514**	**2,255**	**3,274**	**3,742**

Notes:

- CAATPP and HOOPP is forecasted to reach the asset position by 2016-17 and 2017-18 based on the respected expected long-term investment return of the plans. However, if actual investment return performance is better than the long-term expected return, these plans may reach asset position earlier.

Option 1: Footnote and Narrative Explanation of Accounting Impact

- The 2016 FES could show the 2015-16 results based on the time-limited legislated accounting for pension assets – as reported in the unaudited 2015-16 Public Accounts – while showing the 2016-17 to 2018-19 outlook based on the 2016 Budget approach to accounting for pension assets.
- A footnote would be added to the presentation of the medium-term outlook and net debt tables to clarify the difference in accounting treatment of pensions in 2015-16 versus the out-years.

Potential FES Outlook ($ Billions)

	Actual 2015-16	Current Outlook 2016-17	Medium-Term Outlook 2017-18	2018-19
Revenue	**128.4**	**131.8**	**138.4**	**142.5**
Expense				
Programs	122.4	123.3	125.4	128.7
Interest on Debt	11.0	11.6	11.8	12.6
Total Expense	**133.4**	**134.9**	**137.3**	**141.3**
Surplus/(Deficit) Before Reserve	**(5.0)**	**(3.1)**	**1.1**	**1.2**
Reserve	–	1.0	1.1	1.2
Surplus/(Deficit) [1]	**(5.0)**	**(4.1)**	**0.0**	**0.0**

[1] For 2015-16, reflects the financial results based on the time-limited legislated accounting for pension assets for jointly-sponsored pension plans. For 2016-17 and 2017-18, reflects accounting treatment for pension assets consistent with 2016 Budget.

The FES fiscal outlook narrative could be supplemented with an explanation of the potential impact on 2016-17 (and potentially 2017-18 and 2018-19) of a similar change in the accounting treatment of pension assets:

> *The Province is currently undertaking an independent review of the application of PSAB's pension accounting standards to Ontario's jointly sponsored pension plans. Based on the legislated accounting treatment for pension assets for the 2015-16 Public Accounts, the government's projected deficit for 2016-17 could be $2.3 billion higher, at $5.4 billion (excluding the reserve).*

Option 2: Show Accounting Change as Adjustment to Fiscal Outlook

- Alternatively, the government could present the 2016 FES fiscal outlook, adding an adjustment to show the potential net fiscal impact of extending the change in the accounting treatment for pension assets to 2016-17.
  - The impact could also be shown for 2017-18 and 2018-19 (with a potential range), or the government could communicate that the impact is unknown at this time given that the Province is initiating a review of the application of PSAB's pension accounting standards to Ontario's jointly sponsored pension plans.

Potential FES Outlook ($ Billions)	Actual 2015-16	Current Outlook 2016-17	Medium-Term Outlook 2017-18	Medium-Term Outlook 2018-19
Revenue	**128.4**	**131.8**	**138.4**	**142.5**
Expense				
Programs	122.4	123.3	125.4	128.7
Interest on Debt	11.0	11.6	11.8	12.6
Total Expense	**133.4**	**134.9**	**137.3**	**141.3**
Surplus/(Deficit) before Reserve	**(5.0)**	**(3.1)**	**1.1**	**1.2**
Reserve	–	1.0	1.1	1.2
Surplus/(Deficit)	**(5.0)**	**(4.1)**	**0.0**	**0.0**
Potential Net Fiscal Impact of Extending Change in Accounting Treatment for Pension Assets	–	Up to (2.3)	Under review	Under review

Considerations and Key Decisions

Considerations

- In considering whether to build in the potential net fiscal impact of extending the change in accounting treatment for pension assets beyond 2015-16, the government may want to ensure that the deficit trajectory continues to show improvement and remains on track to balance in 2017-18.
- Consideration may need to be given to reporting a range for the potential impact, or to communicate that the potential impact is unknown given the ongoing review (in particular for 2017-18 and 2018-19).

Key Decisions

- Whether to discuss the potential impact of extending the change to the accounting treatment for pensions in narrative form, or show an actual adjustment to the fiscal outlook in the 2016 FES.
- Whether to amend the current FES fiscal outlook – through use of additional tools – to ensure a smooth trajectory to balance even with taking on the accounting change.

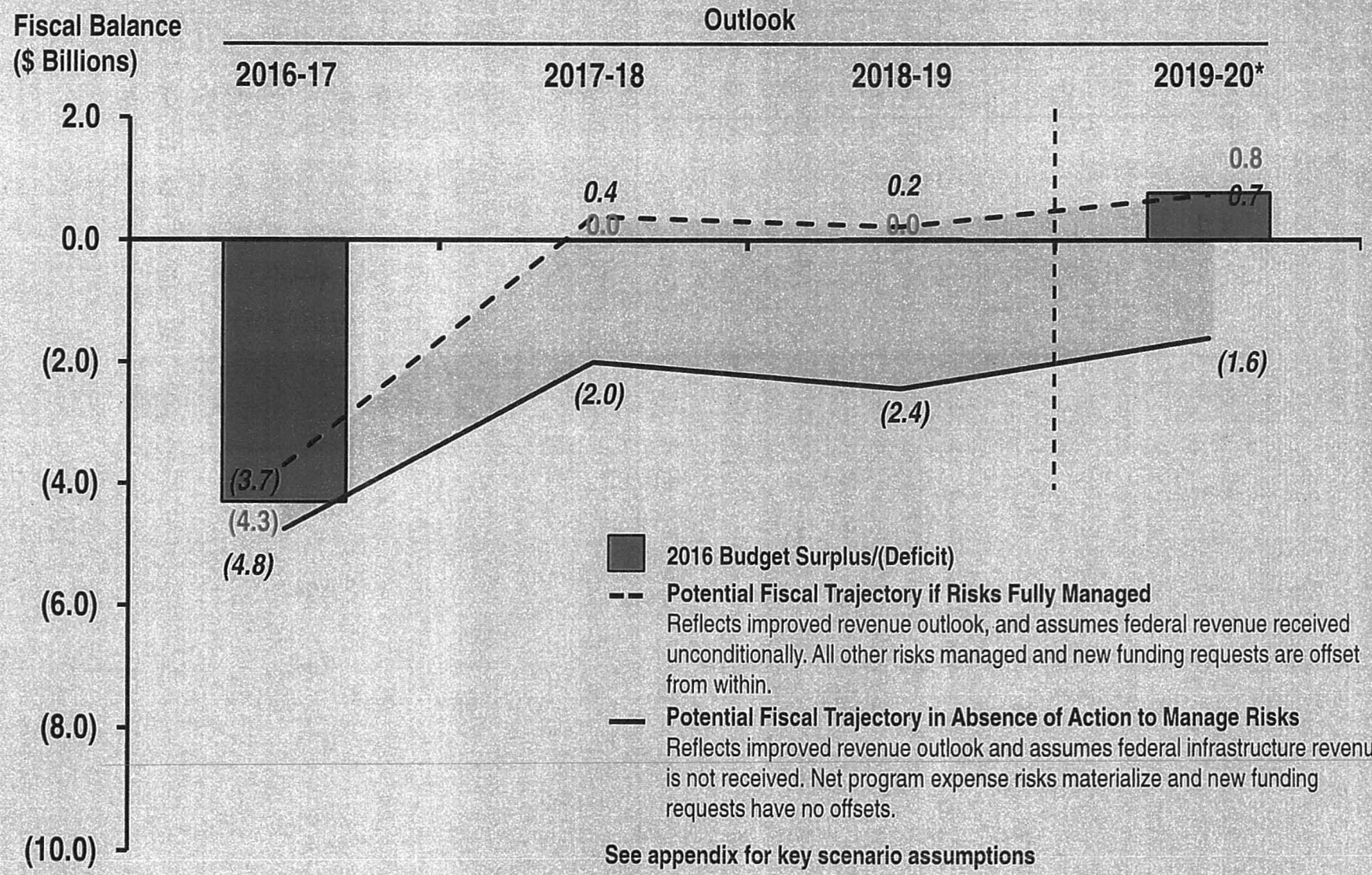
Appendix to MMP:
Update on Fiscal Outlook and Path Forward

Draft - September 14th, 2016 9:00 AM

Confidential Advice to Cabinet – PRELIMINARY DRAFT

June MMP

June MM+P Range of Potential Fiscal Trajectories Based on Current Information



2016 Budget Surplus/(Deficit)

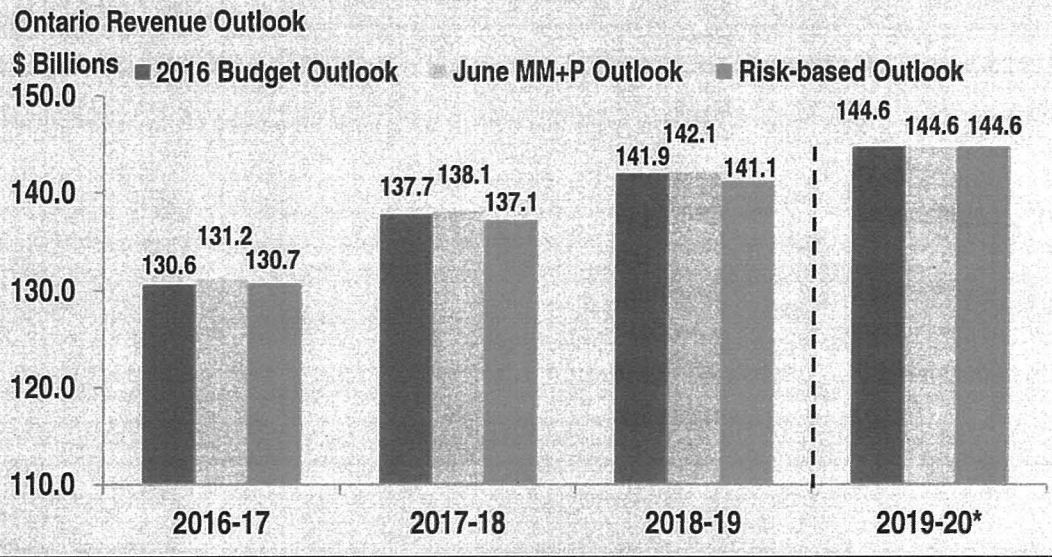
Potential Fiscal Trajectory if Risks Fully Managed
Reflects improved revenue outlook, and assumes federal revenue received unconditionally. All other risks managed and new funding requests are offset from within.

Potential Fiscal Trajectory in Absence of Action to Manage Risks
Reflects improved revenue outlook and assumes federal infrastructure revenue is not received. Net program expense risks materialize and new funding requests have no offsets.

See appendix for key scenario assumptions

Note: scenarios include the reserve, but not funding for new Document initiatives.
** 2019-20 projections were not published in the 2016 Budget.*

Details of the June MM+P Revenue Outlook



Revenue Changes since the 2016 Budget

$ Billions	2016-17	2017-18	2018-19	2019-20*
Prudence in 2016 Budget	—	—	—	—
Economic Outlook	*0.5*	*0.5*	*0.6*	*0.6*
Revenue Information	*0.1*	*0.1*	*0.1*	*0.1*
OLG	—	—	—	—
Equalization	—	*(0.2)*	*(0.4)*	*(0.7)*
Total Changes: June MM+P Revenue Outlook	**0.6**	**0.4**	**0.2**	**(0.0)**
Federal Revenue Risk (Infrastructure)	(0.5)	(1.0)	(1.0)	—
Total Risk-Based Changes to Revenue	**0.1**	**(0.6)**	**(0.8)**	**(0.0)**

Potential Improved Scenario

Potential Deteriorated Scenario

* Revenue projections for 2019-20 do not include new federal transfers of $1.3 billion. 2019-20 projections were not published in the 2016 Budget.

June MM+P Contingency Fund Outlook and Expense Risks

Contingency Fund Outlook

$ Billions	2014-15	2015-16	2016-17	2017-18	2018-19
Opening contingency fund balance	**0.5**	**0.7**	**1.2**	**1.7**	**3.5**
Less: Approvals to date[1]	0.0	0.0	0.3	0.5	0.6
Current contingency fund balance	**0.5**	**0.6**	**0.9**	**1.2**	**2.9**
Less: Compensation Risks set-aside	-	-	0.4	0.9	1.6
Less: Moving Ontario Forward set-aside	-	-	-	0.0	0.4
Contingency fund balance incl. set-asides			**0.5**	**0.3**	**0.9**

Includes Drug Program changes, Child Welfare, Northern Health Action Plan, Action Plan for Reconciliation, School Renewal Funding

Accommodates approximately 1.4% increases in next round of bargaining

[1] For 2014-15 and 2015-16, approvals through Q3 are shown.

- Of the remaining 2016-17 contingency fund, $0.6 billion is encumbered for education capital appropriation, leaving $0.3 billion to cover any contingencies.
- The 2016 Budget included a larger contingency fund, primarily due to funds set aside for future compensation increases and outside the GTHA Moving Ontario Forward projects.
- There have been more draws from the contingency fund in the current fiscal cycle, compared to recent years.
- The remaining contingency fund balance would be used to offset risks.

Expense Risks: Items to be managed

$ Billions	2016-17	2017-18	2018-19
Identified high-likelihood risks	0.4	0.7	1.0
PRRT boulder risks	0.1	0.3	0.3
Cap and trade not applied against in-plan items as assumed	-	0.0	0.6
Other likely funding requests	0.6	0.7	0.7
Total items to be managed*	**1.0**	**1.7**	**2.6**

Pressures such as: Health, Social Assistance caseloads, emergencies, Complex Special needs

Risks include: Business Supports, Benefits Transformation and NTR/full cost recovery

Health, MTO (including UP Express), Business Growth Initiative request, Drive Clean.

* Does not include a remedy for the Bill 115 court decision

$ Billions	2014-15	2015-16	2016-17	2017-18	2018-19
Year-end Savings Target	**1.1**	**1.0**	**0.8**	**1.0**	**1.0**
Total Risks to be managed			**1.8**	**2.7**	**3.6**

- In past years, unspent contingency funds have been used to meet the year-end savings target.
- An initiatives envelope for the 2017 or 2018 Budgets has not yet been incorporated into the fiscal plan.

Note: Numbers may not add due to rounding

Evolution Since the June MM+P

Evolution Since the June MM+P

$ Billions	2016-17	2017-18	2018-19	2019-20	2020-21
June MM+P Surplus/(Deficit): Potential Fiscal Trajectory in Absence of Action to Manage Risks	**(4.8)**	**(2.0)**	**(2.4)**	**(1.6)**	**N/A**
Revenue Updates Since June MM+P					
PIT/OHP Assessments	*0.9*	*1.0*	*1.1*		
Canada Health and Social Transfers	*0.0*	*0.1*	*0.1*		
Equalization	*-*	*(0.4)*	*(0.5)*		
Federal Funding – In-year Approvals	*0.5*	*0.8*	*0.1*		
Total Revenue Updates Since June MM+P	***1.4***	***1.5***	***1.0***		
Expense Updates Since June MM+P					
In-Year Approvals	*0.4*	*1.8*	*1.1*		
Additional Expense Pressures	*2.1*	*2.7*	*3.0*		
Change in Interest on Debt (IOD)	*(0.2)*	*(0.4)*	*(0.3)*		
Total Expense Updates Since June MM+P	***2.3***	***4.1***	***3.9***		
Current Surplus/(Deficit): Deteriorated Scenario	**(5.7)**	**(4.6)**	**(5.3)**	**(4.8)**	**(3.3)**

Details of Current Outlook

New Information Since 2016 Budget

- Since the 2016 Budget, **new information has been received that impacts the fiscal outlook** and assessment of potential risks to the plan.

Revenue	Expense
✓ Final 2015-16 revenue results as part of Public Accounts	✓ Final 2015-16 expense information as part of Public Accounts
✓ Economic updates, including results for the first quarter of 2016	✓ In-year TB/MBC expense approvals
✓ Monthly personal and corporate income tax assessments and provincially administered tax receipts	✓ First quarter expense risk reporting from ministries
✓ Monthly updates to income forecasts for Government Business Enterprises	✓ Report backs from ministries on implementation of boulders
✓ Preliminary estimates on the net impact of asset optimization initiatives (i.e. sale of Hydro One shares and LCBO head office lands)	✓ New initiatives tracking through policy/cabinet committees
✓ 2016 federal budget funding announcements	✓ Impact of early federal negotiations (affordable housing, postsecondary education infrastructure, and clean water/waste water)
	✓ Release of Ontario's Climate Change Action Plan
	✓ Updates on interest on debt forecast

- It is only halfway through the fiscal year and there is still important information to come and upcoming decisions that will impact the fiscal outlook going forward.

Change from 2015 Budget to Public Accounts

Change from the 2015 Budget to Public Accounts	
$ Billions	2015-16
2015 Budget Surplus/(Deficit)	**(8.5)**
Revenue Changes	
Revenue Changes Excluding Hydro One	*2.5*
Net Revenue from First Phase of Broadening Hydro One Ownership	*1.5*
Total Revenue Change	**4.0**
Expense Changes	
Program Expense	*0.4*
Interest on Debt	*(0.4)*
Total Expense Changes	**–**
Reserve	**(1.0)**
Total Improvement/(Deterioration)	**5.0**
Preliminary Actual Surplus/(Deficit)	**(3.5)**

Details of the Current Revenue Outlook

Revenue Changes Since the 2016 Budget

$ Billions	2016-17	2017-18	2018-19	2019-20*	2020-21*
2016 Budget	**130.6**	**137.7**	**141.9**		
June MM+P Updates					
Economic Outlook & Revenue Information	*0.6*	*0.6*	*0.6*		
Equalization	*-*	*(0.2)*	*(0.4)*		
Total June MM+P Updates	***0.6***	***0.4***	***0.2***		
August Updates					
PIT/OHP Assessments	*0.9*	*1.0*	*1.1*		
Canada Health and Social Transfers	*0.0*	*0.1*	*0.1*		
Equalization	*-*	*(0.4)*	*(0.5)*		
Federal Funding – In-year Approvals	*0.5*	*0.8*	*0.1*		
Federal Infrastructure Funding Assumption	*(0.5)*	*(1.0)*	*(1.0)*		
Total Revenue Changes Since 2016 Budget	***1.5***	***0.9***	***0.2***		
Current Revenue Outlook	**132.1**	**138.6**	**142.1**	**145.6**	**150.7**

* Revenue projections for 2019-20 and 2020-21 do not assume new unconditional federal transfers of $1.3 billion per year that were built into the medium-term fiscal plan as part of the 2016 Budget.

Federal Revenue Risks

- In addition to the risk that Ontario's Equalization entitlements will decline, there is also **a risk associated with $3.4 billion in new unconditional federal revenue** built into the fiscal plan.
- Recent progress on infrastructure agreements with the federal government suggest that Ontario's share of **new federal funding will not be in the form of unconditional block transfers**.
- Instead, recent progress on agreements indicate a **requirement for some form of cost-matching/sharing** by Ontario, or flow to municipalities (e.g. transit).

Update on Federal Infrastructure Agreements*

$ Billions	2016-17	2017-18	2018-19
2016 Budget - New Unconditional Federal Infrastructure Revenue	0.5	1.0	1.0
Fiscal Impact of Agreements since 2016 Budget			
Net New Revenue	0.5	0.8	0.1
Associated Increase in Expense	0.5	0.8	0.2
Fiscal Pressure from Agreements since 2016 Budget	-	-	(0.0)
Reversal of Unconditional Infrastructure Transfer	(0.5)	(1.0)	(1.0)
Total Fiscal Pressure from Federal Agreements	(0.5)	(1.0)	(1.0)

* Impact of Public Transit Infrastructure Fund still to be determined.

- For example, Ontario has agreed to participate in the federal Investment in Affordable Housing, Strategic Infrastructure Fund (PSE), and Public Transit Infrastructure Fund – all of which result in either cost-matching or flow to municipalities – rather than unconditional federal revenue.
- Similarly for the Clean Water/Waste Water agreement, Ontario will provide up to 25 per cent of overall funding, with the federal government providing 50 per cent, and municipalities 25 per cent. If ministries are unable to manage the provincial share from within their existing allocations, this will result in additional pressures to the fiscal plan.

Federal Revenue Risks (continued)

- To date, Ontario has been able to offset most Provincial infrastructure cost-matching/sharing with in-plan funding – thereby mitigating some of the fiscal pressure arising from the agreements.
  - However, this does not provide the kind of fiscal benefit anticipated by an unconditional transfer. Overall, there currently exists fiscal pressures of $2.5 billion over 3 years.
- The federal budget also did not include funding for home care, but did include lower-than-expected funding for jobs and training in 2016-17 only.

2016 Budget - New Federal Revenue Assumptions

$ Billions	2016-17	2017-18	2018-19
Other Federal Revenue Assumptions			
Home Care	0.2	0.3	0.2
Jobs and Training	0.1	0.1	0.1
Total Other Federal Revenue Assumptions	**0.2**	**0.3**	**0.3**

- Taken together, the projected reduction in Equalization payments, the lack of unconditional infrastructure funding combined with the requirement to cost-match/share, and no clear federal commitments on health care and labour market training, pose a material risk to the fiscal plan.

Key Revenue Risks

Source	2016-17	2017-18 and onwards	Key Information Timing
Economic Growth Outlook	+/- $0.4B	+/- $0.8B	Key information still to come includes quarterly 2016 Canada Economic Accounts (August Q2, November Q3) and 2015 Provincial Economic Accounts in November 2016.
2015 Personal Income Tax Assessments	+/ - $0.6B	+/- $0.3B	New information monthly, finalized in January 2017.
2014 & prior year Personal Income Tax Assessments	$0.0 to $0.4B	$0.0 to $0.2B	New information monthly, finalized in January 2017.
2016 PIT Assessments (Tax Planning)	-$1.4B to $0.0B	-$0.7B to $0.0B	Analysis ongoing. Preliminary 2016 assessment information will begin flowing in June 2017.
2015 Corporate Income Tax Assessments	$0.0B to +$1.0B	$0.0B to +$0.5B	New information monthly, finalized in January 2017.
Harmonized Sales Tax	-$0.2B to $0.5B	-$0.3B to $0.8B	Provincial Economic Accounts (November 9 2016) and federal entitlement estimates (December 2016.)
Equalization	-	-$0.5B in 2017-18, -$1.3B in 2018-19, -$1.0B 2019-20 onwards	Tax and economic information incorporated on an ongoing basis. Conference Board of Canada forecasts (May, August, November) are a key input into the forecast. 2017-18 final entitlement communicated in December.
New Federal Funding Assumed in 2016 Budget	-$0.2B	-$0.3B	Discussion with federal government ongoing. Federal Budget.
Cap and Trade Proceeds	-$0.4B to $0.0B	-$1.5B to $0.0B	Quarterly auctions commencing March 2017.
Government Business Enterprises	-$0.2B to +$0.4B	$0.0B to +$0.4B	Quarterly financial reports from OPG, OLG and LCBO.
Asset Optimization Target	TBD	TBD	Depends on market conditions at the time of sale (e.g., share prices and property values).

2015-16 Public Accounts Revenues (Preliminary)

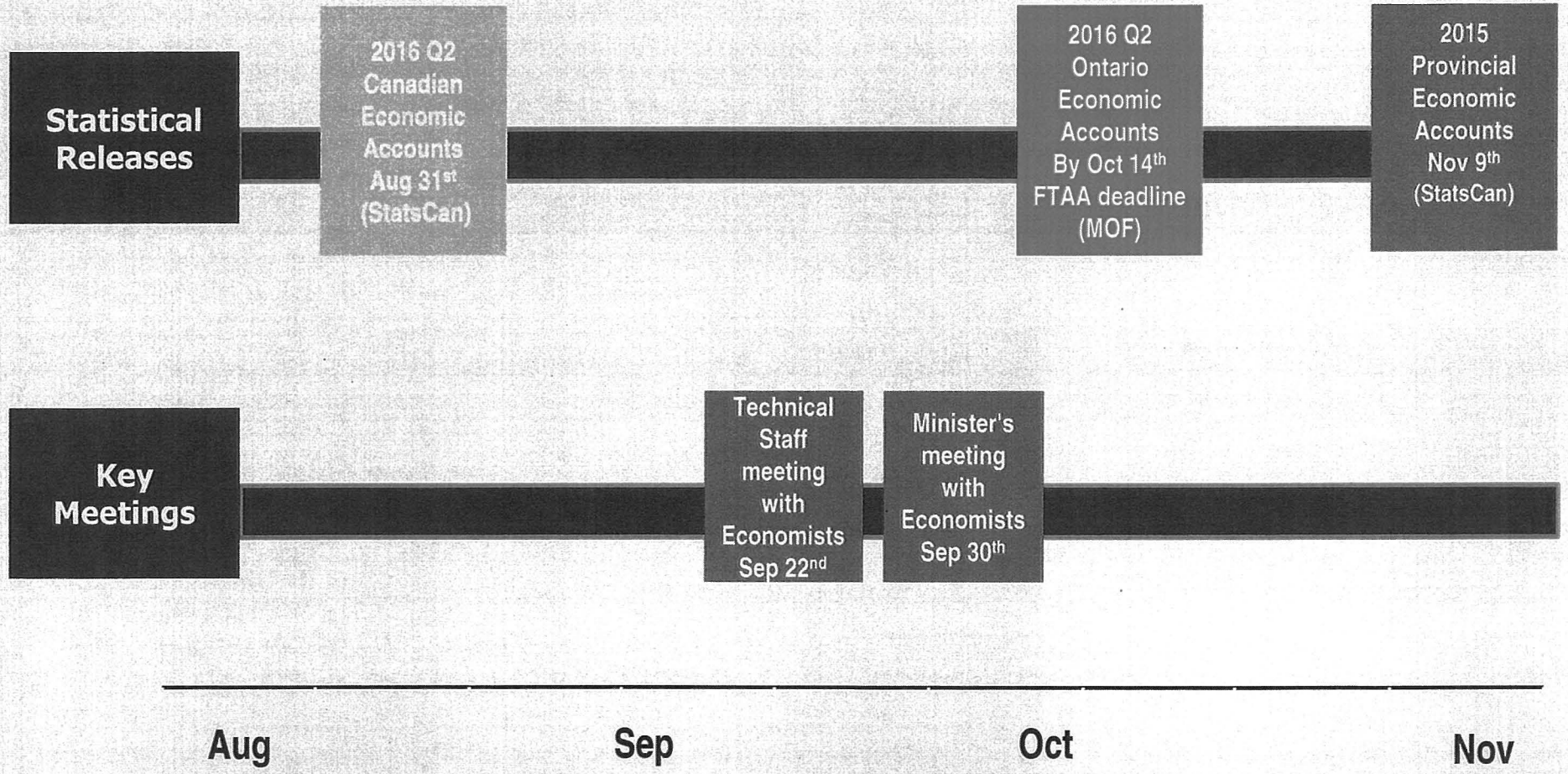
$ Billions		Forecast Implications
2016 Budget Interim Estimate	**126.5**	
2015-16 Public Accounts	**128.4**	
(Preliminary: subject to audit adjustments)		
Changes Since 2016 Budget	**+1.8**	
Details of Changes Since 2016 Budget		
Prudence Built into 2016 Budget	0.4	No Impact. Prudence was one-time. Largely a one time increase in non-tax revenues.
PIT/OHP Assessments	0.9	Increase to the extent it is a higher tax base and not driven by tax planning
Hydro One Net Income	0.4	No impact. Increase due to gain related to deferred tax benefit
Ontario Lottery and Gaming Net Income	0.1	Upside risk to outlook
Total Change Since 2016 Budget	**+1.8**	

Personal Income Tax: Tax Planning Risk

- A new high federal personal income tax rate, of 33 per cent, for income above $200,000 takes effect in 2016.
- It is possible that some of the unexpected strength in 2015 tax assessments is due to high income earners pulling forward income to 2015 where they have discretion to do so.
- The table shows three possible interpretations of the TSS data. If, in fact, there is no pull-forward of income into 2015, PIT would be $0.9 billion higher throughout (current forecast assumption).
- A more cautious estimate assumes that $0.7 billion is pulled forward from 2016 to 2015 with $0.2 billion reflecting stronger 2015 PIT revenue which then carries forward.
- The average scenario assumes that $0.3 billion is pulled forward from 2016 to 2015 with $0.6 billion reflecting stronger 2015 PIT revenue which then carries forward.

	Impact Relative to 2016 Budget Outlook		
$ Billions	2015-16	2016-17	2017-18 onwards
100% Base			
Base	+0.9	+0.9	+0.9
One Time	0.0	0.0	0.0
Net Impact	+0.9	+0.9	+0.9
Cautious Scenario			
Base	+0.2	+0.2	+0.2
One Time	+0.7	-0.7	0.0
Net Impact	+0.9	-0.5	+0.2
Average			
Base	+0.6	+0.6	+0.6
One Time	+0.3	-0.3	0.0
Net Impact	+0.9	+0.3	+0.6

Key Dates for Release of Economic Information and Meetings

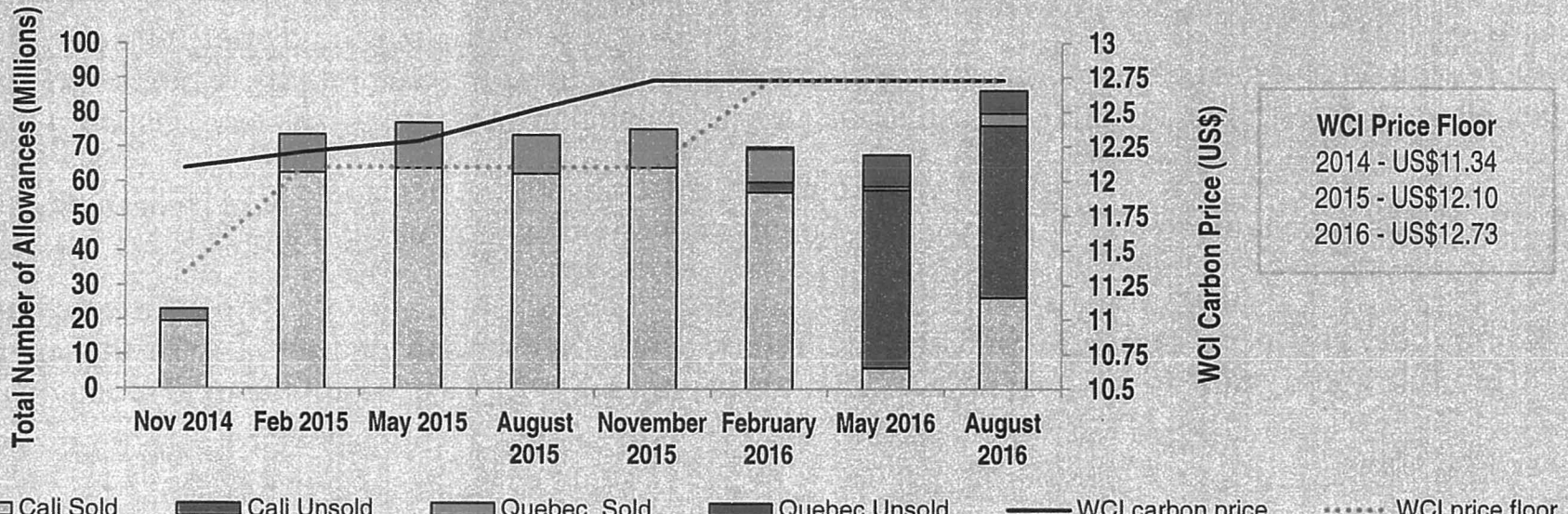


Cap and Trade Proceeds

- California's cap and trade program is currently facing legal challenges, which is creating some uncertainty.
  - It is possible that emitters are holding off on buying allowances until they get closer to the end of the compliance period (current compliance period from 2015 through 2017).
  - The uncertainty may have contributed to the poor sale of allowances at the May and August auction.
- Ontario is planning to hold stand-alone auctions starting in March 2017 before linking with California and Quebec in 2018. Initial stand-alone auctions could result in a higher-than-WCI domestic carbon price.
- Cap and trade revenue summary:

$ Billions	In Plan	Risk
2016-17	0.5	(0.4) to 0.0
2017-18 onwards	1.8 to 1.9	(1.5) to 0.0

- In three joint WCI auctions held so far in 2016, allowances have gone unsold (indicated by the dark blue and dark red bars).
  - In February, 94% of the allowances offered by Quebec were sold; California sold 95% of the total allowances it offered.
  - In May, both Quebec and California sold about 11% of the total allowances they each offered. The August auction performed relatively better though still undersubscribed, selling 35% of offered allowances.
  - In joint auctions prior to 2016, all the allowances that were offered for sale were sold.



Cap and Trade – Fiscal Risks

- **The fiscal plan assumes the $7.9 billion in revenue generated by the Cap and Trade program between 2016-17 and 2020-21 will be spent on greenhouse gas reduction initiatives (as required by legislation).**
  - The Ministry of the Environment and Climate Change (MOECC) has laid out proposed spending of $6.0-$8.3 billion over 5 years in the Climate Change Action Plan (CCAP).
  - Proposed initiatives must be evaluated by the Minister of the Environment and Climate Change and presented to TB/MBC as part of an Annual Investment Plan (AIP) process in order to be funded from Cap and Trade proceeds.
- **The current fiscal architecture assumes that a portion of cap and trade revenues will be spent on existing in-plan initiatives.**
  - If proposed CCAP spending does not align with the fiscal architecture assumptions there could be an impact on the fiscal plan.
  - Early estimates suggest there could be a fiscal pressure of $91 million in 2016-17, $103 million in 2017-18 and approximately $650-700 million in 2018-19 through 2020-21.
- **In addition, lower than expected revenue could create additional fiscal pressure as CCAP programs begin to be implemented.**
  - CCAP contains ranges for the costs of initiatives to promote flexibility and scalability in the event of revenue volatility.
  - In addition, MOECC has been asked to develop a prioritized list of initiatives in its AIP that is flexible and contains different options based on revenue scenarios.
  - Appropriate control mechanisms (such as hold backs) will be put in place to help ensure that any spending commitments do not roll out until revenues are confirmed.

Federal Agreements: Investment in Affordable Housing

- The 2016 Social Infrastructure Fund (SIF) Agreement with the Canada Mortgage and Housing Corporation requires Ontario to spend revenue received from the federal government as well as its own provincial contribution.
  - A portion of in-plan Building Canada Fund (BCF) expense can be re-directed to offset revenue received through the agreement, due to current under-spending in BCF.
  - However, BCF under-spending means Ontario will receive less revenue than planned from the BCF.
  - As a result, there is no fiscal impact in years one and two. Due to re-profiling some funding to 2018-19, there is a potential fiscal impact in 2018-19, in the absence of any offset.

Implementation: Revenue ($ Millions)

	2016-17	2017-18	2018-19
SIF	348.8	124.0	-
BCF (in-plan)	(209.0)	(124.0)	-
Net Revenue	**139.8**	**-**	**-**

Implementation: Expense ($ Millions)

	2016-17	2017-18	2018-19
SIF	411.1	146.0	84.0
Federal BCF* (in-plan)	(209.0)	(124.0)	-
Provincial BCF* (in-plan)	(62.4)	(22.0)	(49.4)
Net Expense	**139.8**	**-**	**34.6**

* A portion of the federal flow-through and provincial BCF spending will be used to offset federal revenue as a result of under-spending in the BCF.

Other Federal Agreements

Postsecondary Education Strategic Investment Fund

- Ontario will cost-match a portion of the federal investment, while PSE institutions will provide the remaining cost-matching funding.
- Ontario's contribution will come from in-plan PSE refurbishment projects (Facilitates Renewal Program) and will have no fiscal impact.

Postsecondary Education Strategic Investment Fund ($ Millions)	2016-17	2017-18	2018-19
Total Revenue	293.1	489.5	0.7
Total Expense	293.1	489.5	0.7
Fiscal Impact	-	-	-

Clean Water and Waste Water Fund

- The Clean Water/Waste Water Agreement is not an unconditional transfer. Ontario will provide up to 25% of total project costs.
- Ontario's contribution will be offset from within the existing fiscal plan, resulting in no planned fiscal impact.

Clean Water and Waste Water Fund ($ Millions)	2016-17	2017-18	2018-19
Total Revenue	85.5	341.7	142.4
Total Expense	85.5	341.7	142.4
Fiscal Impact	-	-	-

Details of the Program Expense Outlook

Details of the Program Expense Outlook $ Billions	2016-17	2017-18	2018-19	2019-20	2020-21
2016 Budget	**122.1**	**124.2**	**127.6**	**129.4**	**131.6**
In-Year Approvals					
In-year Approvals	*0.0*	*1.2*	*1.2*	*1.2*	*1.2*
In-year Approvals – Provisionary	*0.7*	*1.2*	*0.5*	*0.4*	*0.5*
Total In-Year Approvals	***0.7***	***2.3***	***1.7***	***1.6***	***1.6***
Proposed Items to Include in Allocations					
Proposed Items to Include	*0.8*	*0.4*	*0.1*	*0.6*	*0.6*
Transfers and Adjustments	*0.0*	*0.0*	*0.0*	*0.0*	*0.0*
Total Proposed Items to Include in Allocations	***0.8***	***0.4***	***0.1***	***0.6***	***0.6***
Items to be Considered					
Items to be Considered – System Pressures	*0.6*	*1.5*	*2.1*	*2.7*	*3.3*
Items to be Considered – Responsive Policy	*0.0*	*0.1*	*0.2*	*0.2*	*0.2*
Items to be Considered – New Policy	*0.3*	*0.7*	*0.9*	*1.0*	*1.1*
Total Items to be Considered	***0.8***	***2.4***	***3.2***	***3.9***	***4.7***
Ministries to Manage	***0.7***	***0.8***	***0.7***	***0.7***	***0.7***
Risk-Based Outlook	**125.2**	**130.0**	**133.4**	**136.2**	**139.3**

Contingency Fund Status

Fiscal Basis ($ Millions)	2016-17
2016 Budget Plan	1,200.0
TB/MBC Approvals - As Minuted	
Disaster Relief: Ecuador and Fort McMurray Wildfire (Chair's Delegated)	(1.0)
Priority Initiatives that Support Ontario's Indiginous Communities (April 12)	(1.8)
Child Support Payments Exemption (April 12)	(2.7)
Chapleau Cree Stage 2B (May 3)	(0.7)
Ontario Corn Fed Beef Market Development Strategy (May 3)	(3.1)
First Nations Health Action Plan (May 17)	(40.4)
Business Growth Initiative - Tranche 1 (Jun 21)	10.0
Autism Reform (Jun 21)	(91.3)
National Disaster Mitigation Program (Jun 21)	(0.9)
Anti-Racism Directorate Request for Additional Resource (Jun 21)	(2.9)
2016-17 Treasury Board Order for Public Protection (Jul 19)	(65.0)
Transfer of Brant -- Burtch Correctional Centre (Jul 19)	(4.3)
Provincial Anti Human Trafficking Coordination Office (Aug 12)	(1.4)
ORPP AC Wind-Up (Aug 23)	(20.0)
Electricity Price Mitigation	(300.0)
Green Investment Fund	(325.0)
Adjustment for items where expense not recorded	1.2
Total TB/MBC Approvals	**(849.4)**
Current Balance (Fiscal Basis)	**350.7**
Other potential draws if ministries cannot manage	
Truth and Reconciliation Commission	(24.7)
Strategy to End Human Trafficking	(3.9)
MCSCS: NAN/Self-administered Policing	(10.5)
MAG - Motherisk Commission and Police Oversight Review	(8.5)
Income Testing - Revison to Drug Strategy	(106.0)
MMAH: Social Infrastructure Fund (federal flow-through)	(139.8)
TCU: Strategic Investment Fund (federal flow-through)	(293.1)
MEDEI: Clean Water and Wastewater Fund (federal flow-through)	(85.5)
EDU: School Renewal Funding	(37.6)
Adjustment for items where expense not recorded	518.4
Total Other potential draws if ministries cannot manage	**(191.1)**
Remaining Balance	159.5

Note: the 2016 Budget Plan included a year-end savings target of $800 million in 2016-17.

Compensation Set Aside in Contingency Fund

The outlook continues to include provisions for an approximately 1.4% salary increase for future rounds of bargaining

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
MOHLTC	Hospital Compensation	105.0	227.0	353.0	465.0	582.0	**1,732.0**
MOHLTC	OHIP Compensation	-	260.0	309.0	301.0	301.0	**1,171.0**
MOHLTC	Other Health Compensation	18.0	31.0	52.0	66.0	83.0	**250.0**
EDU	Remedy: Roll-Over and One-Time Expenditures	-	176.4	280.0	280.0	280.0	**1,016.4**
EDU	Education Agreements After One Year of Roll-Over	-	-	190.0	500.0	810.0	**1,500.0**
EDU	Remedy: Ongoing Targeted Sector Investments	-	94.5	150.0	150.0	150.0	**544.5**
EDU	Provincial Benefits Trusts - Ongoing Costs	15.0	56.0	56.0	56.0	56.0	**239.0**
MCSCS	OPPA Collective Agreement	21.6	44.1	56.9	56.9	56.9	**236.4**
MCSS	Compensation Increases Risk	-	25.0	50.0	75.0	100.0	**250.0**
Various	All Other Compensation Risks	31.6	85.2	171.7	250.7	336.2	**875.4**
CFund	Set aside for compensation	(191.2)	(999.2)	(1,668.6)	(2,200.6)	(2,755.1)	**(7,814.7)**
	Total	**-**	**-**	**-**	**-**	**-**	**-**

In-Year Approvals

Multi-year fiscal impacts noted for 2016-17 TB/MBC in-year approvals

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
MOHLTC/ MCYS	First Nations Health Action Plan	40.4	75.7	105.5	104.5	104.5	**430.7**
MCYS	Autism Reform	91.3	64.6	5.0	5.0	-	**165.9**
MCYS	Child Welfare Reform (Preliminary impact)	-	2.8	35.4	46.2	49.9	**134.3**
EDU	School Renewal Funding	37.6	43.8	41.7	41.7	41.7	**206.6**
Various	Action Plan for Reconciliation	24.7	109.3	124.5	120.2	120.2	**498.9**
MOHLTC	Income Testing - Revision to Drug Strategy	106.0	170.0	188.0	238.0	288.0	**990.0**
MAESD	Strategic Investment Fund	293.1	488.3	0.7	-	-	**782.0**
MEDEI	Clean Water and Wastewater Fund	85.5	341.7	142.4	-	-	**569.5**
MMAH	Social Infrastructure Fund	139.8	0.3	-	-	-	**140.1**
MOECC	Drive Clean	-	38.5	38.5	38.5	38.5	**154.0**
MNRF	Emergency Forest Firefighting	65.0	-	-	-	-	**65.0**
ENE	Electricity Price Mitigation	300.0	1,000.0	1,000.0	1,000.0	1,000.0	**4,300.0**
Various	Green Investment Fund	325.0	-	-	-	-	**325.0**
Cap&Trade	Cap and Trade Offset for Electricity Mitigation	-	(60.0)	(60.0)	(60.0)	(60.0)	**(240.0)**
Various	Other*	(813.0)	46.0	82.2	53.2	53.8	**(577.8)**
	Total In-Year Approvals	**695.4**	**2,321.0**	**1,703.9**	**1,587.3**	**1,636.6**	**7,944.2**

* Includes contingency fund offsets in 2016-17

Proposed Items to Include in Allocations

Fiscal impacts related to updated information on programs/initiatives for which alternative funding decisions are likely unachievable (e.g., fund demand for mandated programs)

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
MTO	Municipal Transit project delays	(61.1)	36.1	(1.7)	7.3	-	**(19.4)**
MCSS	Social Assistance Forecast (partially funded)	150.0	175.0	200.0	250.0	300.0	**1,075.0**
MOHLTC	Ontario Health Insurance Plan	178.4	-	-	-	-	**178.4**
MOHLTC	Cancer Care Ontario	66.2	-	-	-	-	**66.2**
MAESD	OSAP Changes to ensure support level is matched to 30% off Tuition Grant	(60.0)	50.0	50.0	50.0	50.0	**140.0**
MIRR	Land Claims Risks	50.8	-	-	-	-	**50.8**
MTO	Other Next Wave (Yonge North Subway & Relief Line)	11.1	21.5	41.5	50.0	50.0	**174.1**
Various	Other	206.4	96.1	256.7	529.2	785.7	**1,874.1**
Cap&Trade	Cap and Trade Update	91.4	103.3	655.8	669.0	692.2	**2,211.7**
Cfund	Reset Contingency Fund to $600M in 2017-18 and on-going	191.2	(117.1)	(1,066.9)	(989.6)	(1,246.9)	**(3,229.3)**
	Total Proposed Items to Include in Allocations	**824.4**	**364.9**	**135.4**	**565.5**	**631.0**	**2,521.6**

System Pressures

Estimated fiscal impacts of potential actions to be taken to address demand for (and improve quality) of services

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
MCSS	Social Assistance Forecast (residual from forecast)	76.3	263.4	388.9	471.6	607.0	**1,807.2**
MCSS	Social Assistance Rate Increase	-	70.0	200.0	330.0	460.0	**1,060.0**
MCYS/ MCSS	Transition Adults with Special Needs	29.1	80.0	120.0	160.0	200.0	**589.1**
MTO	Winter Highway Maintenance	4.0	25.7	25.9	26.0	26.2	**107.8**
MTO	Metrolinx Operating Subsidy - Go Transit Regional Express Rail		27.1	38.5	57.6	71.7	**194.9**
MOHLTC	Hospitals	360.0	400.0	450.0	500.0	550.0	**2,260.0**
MOHLTC	Community Care	-	100.0	200.0	300.0	400.0	**1,000.0**
MOHLTC	Drug Programs - Utilization	-	100.0	150.0	200.0	250.0	**700.0**
MOHLTC	OHIP - Other	-	60.0	70.0	140.0	200.0	**470.0**
MOHLTC	Long-Term Care Homes	-	20.0	40.0	60.0	80.0	**200.0**
MOHLTC	Assistive Devices Program	-	18.0	18.0	18.0	18.0	**72.0**
MOHLTC	Other Program Pressures	-	100.0	150.0	200.0	250.0	**700.0**
MCSS	Benefits Transformation Pressures	-	54.7	49.6	29.6	14.6	**148.5**
Various	Business Supports Risk	53.0	125.3	165.8	119.8	99.8	**563.7**
Various	Service Fee Boulder Risks	19.4	33.5	41.2	51.1	59.9	**205.1**
Various	Other System Pressures	14.7	32.3	34.9	35.8	42.0	**159.6**
	Total System Pressures	**556.5**	**1,510.0**	**2,142.8**	**2,699.5**	**3,329.2**	**10,237.9**

Responsive Policy

Estimated fiscal impacts of potential initiatives to be taken in response to publicly raised concerns

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
EDU	School Renewal Funding - 2018-19 onwards	-	-	48.5	79.3	103.4	**231.2**
MCSS	Developmental Services response to Ombudsman	-	50.0	50.0	50.0	50.0	**200.0**
MCSCS	Segregation/Correctional Services Transform	-	65.0	82.5	82.5	82.5	**312.5**
	Total Responsive Policy	**-**	**115.0**	**181.0**	**211.8**	**235.9**	**743.7**

New Policy

Estimated fiscal impacts of upcoming ministry policy or other new funding proposals

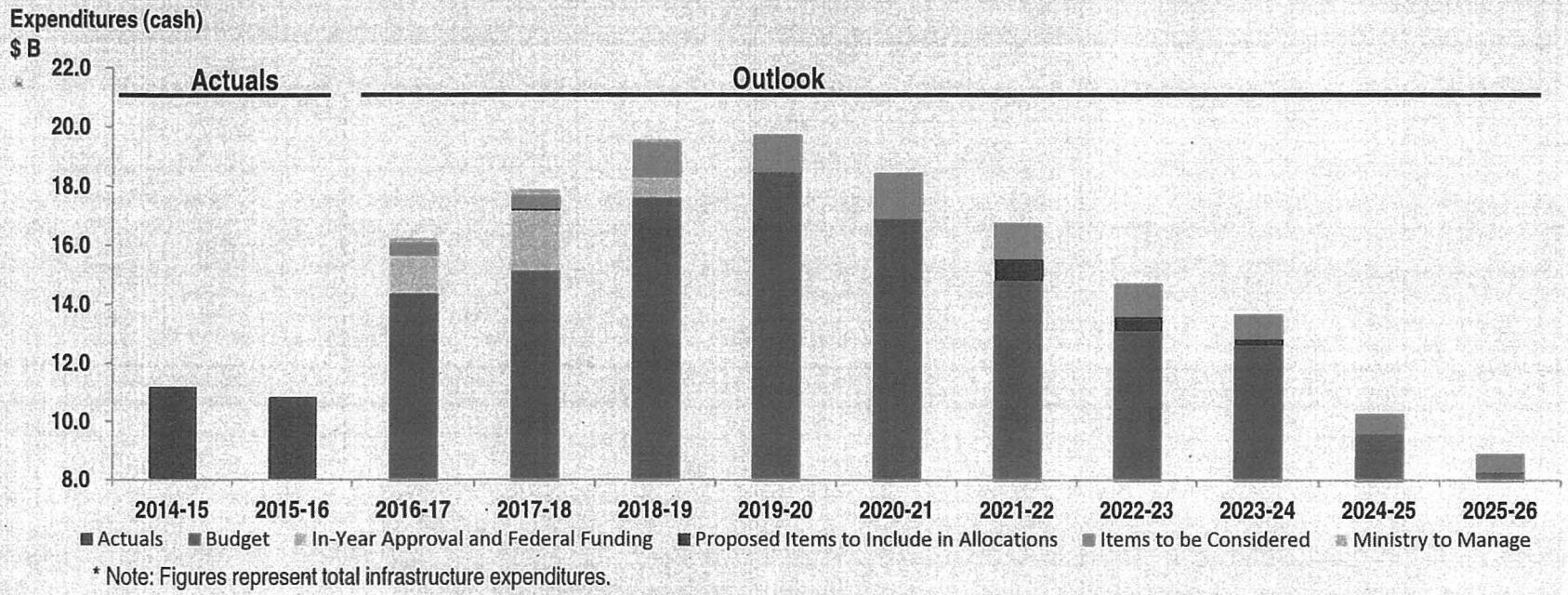
$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
EDU	Child Care Expansion	-	232.0	421.0	610.0	799.0	**2,062.0**
MEDEI/ MRI	Project Momentum	192.1	209.9	213.1	164.6	41.2	**820.9**
MEDEI/ MRI	Business Growth Initiative – Next Phase	39.1	84.2	84.2	84.2	84.2	**375.9**
MAG/ MCSCS	Serious Fraud Office	-	60.0	60.0	60.0	60.0	**240.0**
MAESD	OSAP Changes – Further enhancements	-	50.0	50.0	50.0	50.0	**200.0**
MOHLTC	Alcohol Strategy	40.0	44.7	42.5	42.5	42.5	**212.2**
MMAH	Building Code Research Out-Year Pressure	-	5.7	8.2	-	-	**13.8**
MTO	Highway expansion funding with Municipalities	-	2.0	2.0	2.0	2.0	**8.0**
MOHLTC	Fluoridation	-	32.7	32.7	12.8	12.8	**91.0**
MIT	Going Global Export Strategy	10.0	10.0	10.0	10.0	10.0	**50.0**
	Total New Policy	**281.2**	**731.2**	**923.7**	**1,036.1**	**1,101.7**	**4,073.8**

Ministries to Manage

Risks that would not be funded and ministries would be directed to manage within their allocation

$ Millions	Item	2016-17	2017-18	2018-19	2019-20	2020-21	5 Year Total
MOHLTC	Pressures Across Ministry	152.5	225.0	225.0	225.0	225.0	**1,052.5**
OMAFRA	Business Risk Management	85.7	85.7	85.7	85.7	85.7	**428.5**
EDU	Pressures related to School Board Efficiencies and Modernization targets	37.2	61.6	-	-	-	**98.8**
EDU	Grants for Student Needs Enrolment Risk	15.8	40.8	65.8	90.8	115.8	**329.0**
EDU	Remedy - Ongoing Targeted Sector Investments (Ministry Portion)	-	31.5	50.0	50.0	50.0	**181.5**
EDU	School Board Consolidation Pressure	159.4	-	-	-	-	**159.4**
MNRF	Emergency Forest Firefighting	-	60.0	60.0	60.0	60.0	**240.0**
MTO	Metrolinx Operating Subsidy - PRESTO	-	13.8	22.4	29.6	29.6	**95.4**
MNDM	New Contaminated Sites	103.6	-	-	-	-	**103.6**
MEDEI	Clean Water and Wastewater Fund (Provincial share)	40.0	160.1	66.7	-	-	**266.9**
Various	Other	102.0	139.4	155.0	143.6	134.4	**674.4**
	Total Ministry to Manage	**696.2**	**817.9**	**730.6**	**684.7**	**700.5**	**3,630.0**

Capital Plan - Infrastructure Expenditures (Gross)



* Note: Figures represent total infrastructure expenditures.

- The 2016 Budget identifies a 10-year over $137B infrastructure plan (2016-17 to 2025-2026) and a 12-year $160B plan, starting in 2014-15.
- The Capital Plan includes a commitment of $31.5B in dedicated funds over 10 years for Moving Ontario Forward.

Inside GTHA – approx. $16.5B	Fully committed
Outside GTHA – approx. $15B	Almost fully committed*

* Remaining set-aside of $3.2B is almost fully committed to proposed projects awaiting approval: Strategic Community Infrastructure Fund ($2.6B), London transit (up to $300M), Natural Gas (up to $50M).

- Moving Ontario Forward cannot accommodate new project costs in the short term and there is very limited capacity over the 10-year capital plan.

Capital Plan Outlook - Infrastructure Expenditures (Gross)

In-Year Approvals and Federal Funding:

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
In-Year Approvals												
MIRR	Chapleau Cree Stage 2B	0.4	0.2	-	-	-	-	-	-	-	-	0.5
MMAH	Increasing Affordable Housing 2014 Extension Reallocation	(1.3)	-	-	-	-	-	-	-	-	-	(1.3)
MMAH	National Disaster Mitigation Program (NDMP)	0.0	-	-	-	-	-	-	-	-	-	0.0
MOI/ MMAH/ MCSS	Reallocation of BCF for Affordable Housing Programs	(5.2)	-	34.6	-	-	-	-	-	-	-	29.4
EDU	School Renewal Funding (2016-17 and 2017-18 only)	556.0	487.0	-	-	-	-	-	-	-	-	1,043.0
MCYS	Child and Youth Mental Health BI Solution	4.6	-	-	-	-	-	-	-	-	-	4.6
EDU/ MTCS	Action Plan and Reconciliation	1.40	14.8	14.30	10.0	10.0						**50.5**
Sub-Total In-Year Approvals		**555.9**	**502.0**	**48.9**	**10.0**	**10.0**	**-**	**-**	**-**	**-**	**-**	**1,126.7**
Federal Funding												
MMAH	Social Infrastructure Fund (federal flow-through)	139.8	0.0	-	-	-	-	-	-	-	-	139.8
MAESD	Strategic Investment Fund	292.0	488.0	-	-	-	-	-	-	-	-	780.0
MTO	Public Transit Infrastructure Fund: Substitute in-plan prov. contributions with federal funding (no expense or appropriation impacts, revenue benefit of $100M over 3 years)	-	-	-	-	-	-	-	-	-	-	-
MTO/ MOI	Public Transit Infrastructure Fund (federal flow-through)	207.0	690.0	483.0	-	-	-	-	-	-	-	1,380.0
MOI	Clean Water and Wastewater Fund	85.5	341.7	142.4	-	-	-	-	-	-	-	569.5
Sub-Total Federal Funding		**724.2**	**1,519.7**	**625.4**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**2,869.2**
Total In-Year Approvals and Federal Funding		**1,280.1**	**2,021.6**	**674.3**	**10.0**	**10.0**						**3,996.0**

Capital Plan Outlook - Infrastructure Expenditures (Gross)

Proposed Items to Include in Allocations:

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Proposed Items to Include:												
MCYS	Asset appropriation for CYMH IT project	4.6	2.6	-	-	-	-	-	-	-	-	7.2
MEDEI/ MRI	Strategic Community Infrastructure Fund	-	-	160.0	420.0	690.0	700.0	450.0	180.0			2,600.0
C-Fund	Strategic Community Infrastructure Fund (MOFwd Set Aside Offset)			(160.0)	(420.0)	(690.0)						(1,270.0)
MMAH	Underspending in Affordable Housing Program	(1.1)	-	-	-	-	-	-	-	-	-	(1.1)
MTCS	Fort William Flood Mitigation Project Delay	(8.5)	8.5	-	-	-	-	-	-	-	-	-
MTO	Durham BRT better than expected progress	4.0	(3.0)	-	-	-	-	-	-	-	-	1.0
MTO	Hwy 407 - Delay in Opening	(1.6)	-	-	-	-	-	-	-	-	-	(1.6)
MTO	Municipal Transit project delays	(61.1)	36.1	(1.7)	7.3	-	-	-	-	-	-	(19.4)
TBS	Guelph Data Centre Lifecycle Costs Shortfall	-	0.8	0.7	1.0	1.0	1.0	1.1	1.8	1.8	1.8	11.0
Total Proposed Items to Include in Allocations		(63.7)	45.1	(1.1)	8.3	1.0	701.0	451.1	181.8	1.8	1.8	1,327.1

* Note: Figures represent total infrastructure expenditures.

Capital Plan Outlook - Infrastructure Expenditures (Gross)

Items to be Considered:

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Historical/System Pressures												
OMAFRA	Business Supports Risk	30.0	-	-	-	-	-	-	-	-	-	30.0
OFA	Funding Realignment for the Queen's Park Monument	(0.4)	0.4									-
MAG	Halton Region Consolidated Courthouse						15.0	15.0	14.9	14.8	14.7	74.4
MTO	Contractual Land Transfers	5.3	-	-	-	-	-	-	-	-	-	5.3
MTO	Upcoming Highway Transfers	-	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	135.0
	Items to Consider – Historical/System Pressures	**34.9**	**15.4**	**15.0**	**15.0**	**15.0**	**30.0**	**30.0**	**29.9**	**29.8**	**29.7**	**244.7**

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Responsive Policy												
EDU	School Renewal - 18-19 onwards			618.0	618.0	618.0	618.0	618.0	618.0	618.0	618.0	4,944.0
EDU	TDSB Surplus Sites (TBD)	-	-	-	-	-	-	-	-	-	-	-
	Items to Consider – Responsive Policy	**-**	**-**	**618.0**	**618.0**	**618.0**	**618.0**	**618.0**	**618.0**	**618.0**	**618.0**	**4,944.0**

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
New Policy												
EDU	Child Care Expansion	400.0	400.0	400.0	400.0	400.0	-	-	-	-	-	2,000.0
MOHLTC	Fluoridation	-	19.9	19.9	-	-	-	-	-	-	-	39.7
MTO	Highway expansion funding with municipalities	-	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	18.0
MMAH	National Housing Strategy	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
MOI	Phase 2 Federal Infrastructure Funding	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
MOHLTC	Stage 2 Approvals for Hospital Construction	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
MTCS	Ontario Place Revitalization	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
	Items to Consider – New Policy	**400.0**	**421.9**	**421.9**	**402.0**	**402.0**	**2.0**	**2.0**	**2.0**	**2.0**	**2.0**	**2,057.7**

Capital Plan Outlook - Infrastructure Expenditures (Gross)

Items to be Considered:

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Items to Consider - Other												
MTO	GO Rail Extension to Bowmanville - Construction (2014$)	5.0	10.0	30.0	55.0	160.0	165.0	100.0	25.0	-	-	**550.0**
MTO	Bowmanville - Cost Escalation and Financing	0.3	1.2	4.5	10.6	33.4	47.9	47.1	20.8	-	-	**165.8**
MTO	Hamilton and Hurontario LRT - Financing	0.6	3.3	13.8	35.4	66.6	103.8	89.2	60.3	32.6	-	**405.6**
MTO	Other Next Wave Planning - Cost Escalation	-	1.3	4.7	11.1	15.7	9.9	2.6	1.6	1.9	2.2	**51.0**
MTO	GO Rail Expansion on Kitchener Corridor incl. CN Bypass - Cost Escalation and Financing	1.8	23.5	62.7	128.0	205.2	257.4	256.3	112.6	-	-	**1,047.5**
MTO	Go Rail Extension to Niagara - Cost Escalation and Financing	0.3	1.3	3.8	6.4	9.3	11.7	12.1	6.1	-	-	**49.7**
MTO	AFP, Lifecycle, Operating and Maintenance Costs for Above Projects, and for RER Package 2 and Package 3	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	-
Sub-Total Items to Consider – Other		8.0	40.6	119.5	246.5	490.2	595.7	507.3	226.4	34.5	2.2	2,270.9
Items to Consider - Total		**442.9**	**477.9**	**1,174.4**	**1,281.5**	**1,525.2**	**1,245.7**	**1,157.3**	**876.3**	**684.3**	**651.9**	**9,517.3**

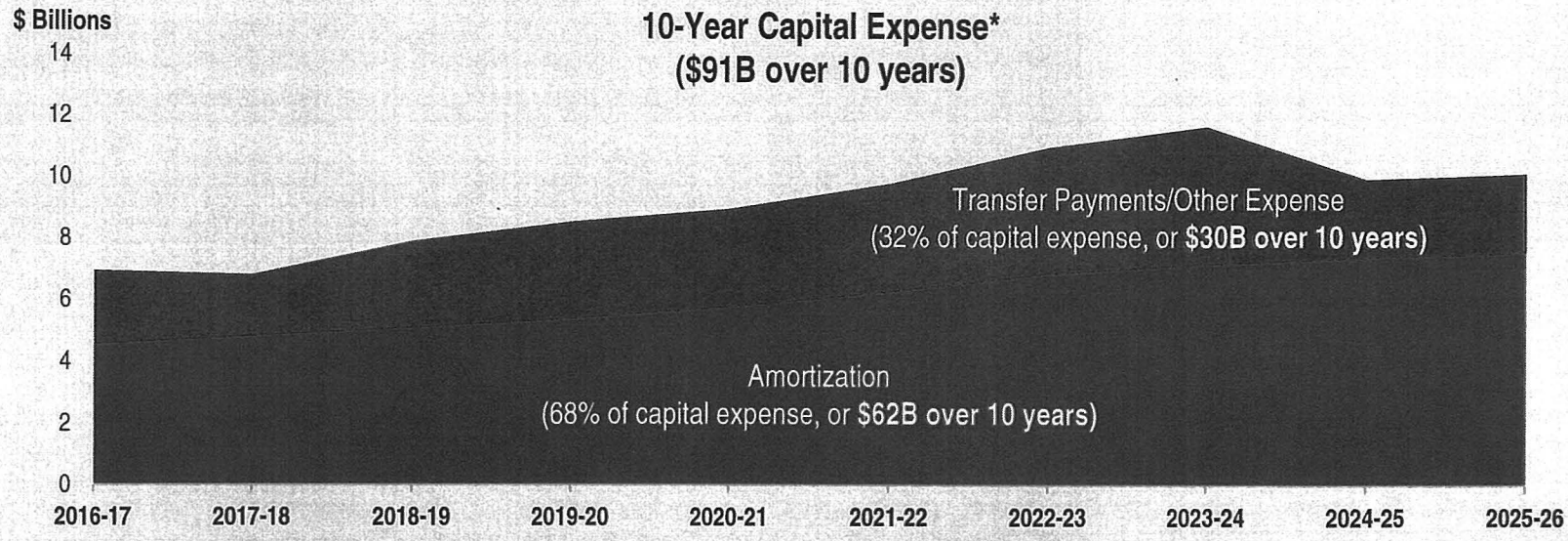
Capital Plan Outlook - Infrastructure Expenditures (Gross)

Ministries to Manage:

$M	Item	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	Total
Ministries to Manage												
EDU	Child Care Capital Pressure	1.0										1.0
EDU	Proceeds of Disposition from Sale of Assets		21.0	21.0								42.0
EDU	Sharlour Children's Centre	3.0										3.0
MAG	Court Construction Underspending	(14.8)	3.5	5.9	5.9							0.4
MAG	MAG - Facilities Renewal Underspending	(7.0)										(7.0)
MAG	MAG Initiative 1020 - 720 Bay	4.5	5.8	5.8	5.8	0.5						22.3
MCSCS	Alternative Financing Procurement (AFP) - Capital	7.4										7.40
MEDEI	Clean Water and Wastewater Fund (Provincial share)	40.0	160.1	66.7								266.9
MGCS	Lower Interest Payments of the Capital Leases	(0.2)										(0.2)
MGCS	ONBIS Project Delay	(0.5)	(2.3)									(2.9)
MNDM	Contaminated Sites Inflationary Adjustment	15.2	10.8	10.8	10.8	10.8	10.8	10.8	10.8	10.8	10.8	112.4
MNDM	New Contaminated Sites	103.6										103.6
MOECC	Dorset Lab Site Relocation	0.5	2.5	0.3								3.2
MTO	Salaries and Wages	(0.4)										(0.4)
Ministries to Manage – Total		**152.2**	**201.4**	**110.4**	**22.4**	**11.3**	**10.8**	**10.8**	**10.8**	**10.8**	**10.8**	**551.7**

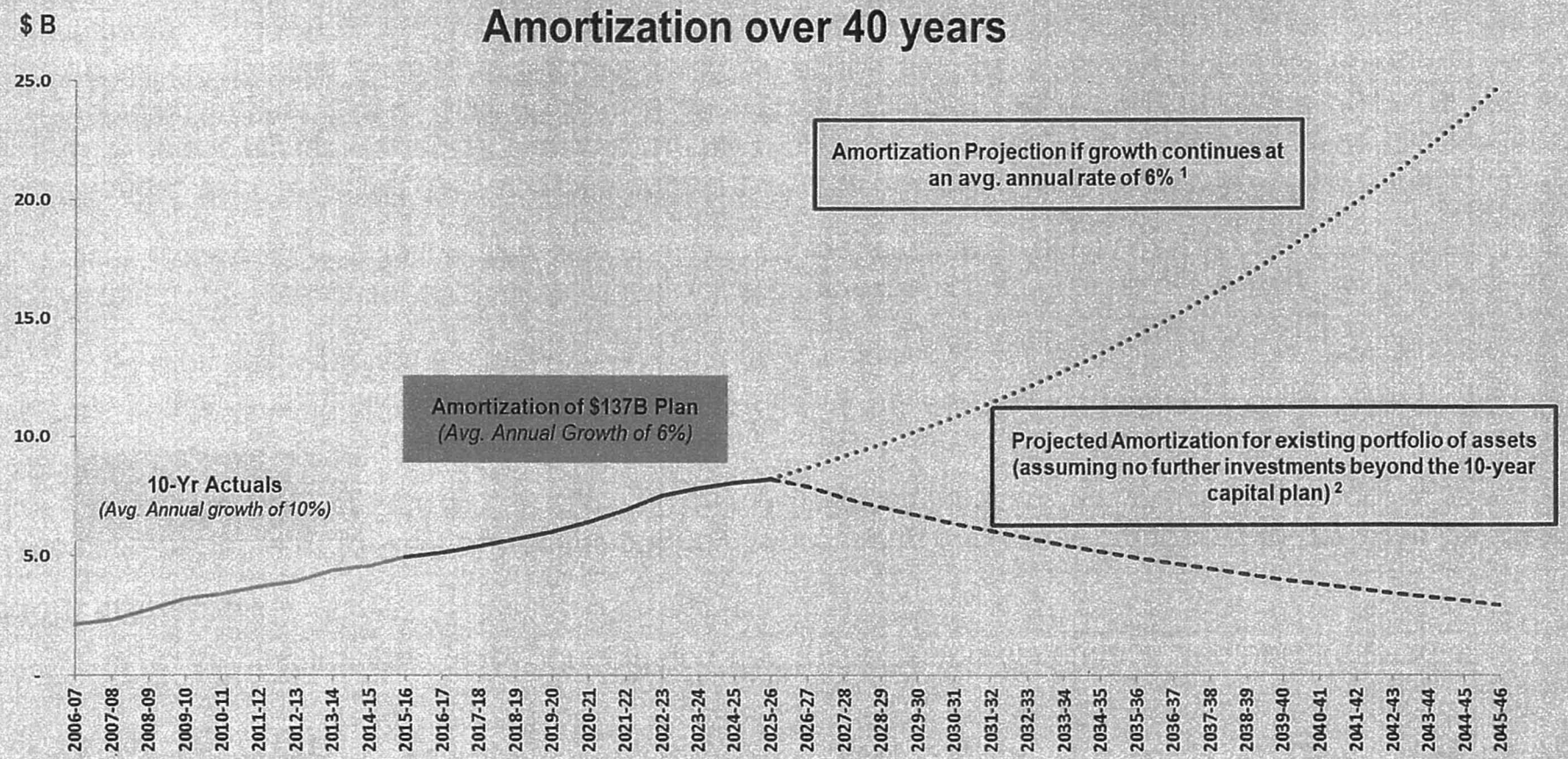
Fiscal Impact of the Capital Plan

- As of Budget 2016, capital expense is projected to grow at an average annual rate of **6% over 10-years**. It increases from $6.9 billion in 2016-17 to $11.6 billion in 2023-24.
- If amortization expense continues to grow at this rate, the government will need to accommodate an increasing amount of non-discretionary expense in its budget, potentially crowding out other program expenses.
- **Amortization expense** is the biggest component of capital expense and is primarily made up of amortization on existing assets. As new projects come into service, they contribute to the growth in amortization.



**As of Budget 2016, figures do not include 2016 in-year approvals and risks; Numbers may not add due to rounding*

Long-Term Amortization Impacts



Notes

- Commencing April 1, 2005, the Provincial Reporting Entity was expanded to include BPS entities *(hospitals, school boards and colleges)*
- Amortization profiles converted to represent gross amortization which includes amortization associated with Third Party contributions; Public Accounts only discloses gross amortization

1 Assumes flat-line annual growth of 6% over 20 years.

2 Illustrative profile; assumes a flat-line average annual decline of 5%.

Net Debt-to-GDP Outlook

Net debt is influenced by the surplus/deficit as well as investments in capital.

$$\text{2015-16 Net Debt-to-GDP} = \frac{\text{Net Debt}}{\text{Nominal GDP}} = \frac{\$294{,}565\text{ M}}{\$747{,}101\text{ M}} = 39.4\%$$

Nominal GDP is influenced by periodic updates to the economic outlook and performance.

Recent Updates

- The **current net debt-to-GDP outlook is slightly improved in each year compared to the 2016 Budget**, reflecting updates to net debt as part of the 2015-16 Public Accounts and nominal GDP projections as of spring 2016.
  - The reduction in the final deficit for 2015-16 from an interim forecast of $5.7 billion in the 2016 Budget to $3.5 billion has improved the medium-term net debt outlook.
  - Nominal GDP results for 2015 were slightly lower-than-expected at the time of the 2016 Budget as a result of lower GDP inflation. This also results in a lower outlook for nominal GDP over the medium-term.
  - Changes to 2015-16 net debt as part of Public Accounts has resulted in a trajectory where the net debt-to-GDP ratio is higher in 2016-17 than in 2015-16. This differs from the 2016 Budget trajectory, which projected that net debt-to-GDP would level off in 2016-17, before beginning to decline in 2017-18. There are still outstanding items to be discussed with the Auditor General before the Public Accounts are finalized.

	2015-16	2016-17	2017-18	2018-19
2016 Budget Net Debt-to-GDP	39.6%	39.6%	38.9%	38.5%
Updated Net Debt-to-GDP Forecast	39.4%	39.5%	38.8%	38.4%

- Nominal GDP for 2015 (and potentially further back), as well as the outlook for 2016 and beyond, may be revised in November after the release of Statistic Canada's Provincial Economic Accounts.

Interest on Debt Outlook

- The outlook for **interest on debt** expense is below the 2016 Budget estimate, primarily due to lower-than-forecasted interest rates.

$ Billions	2016-17	2017-18	2018-19	2019-20	2020-21
2016 Budget Interest on Debt	**11.8**	**12.5**	**13.1**	**13.3**	**13.7**
Interest on Debt Forecast Update	(0.2)	(0.4)	(0.3)	(0.3)	(0.2)
Current Interest on Debt Outlook	**11.6**	**12.1**	**12.8**	**13.0**	**13.5**

File: Fiscal 16-17

Fiscal Update and Current Assessment

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Draft – December 6, 2016 7:30 PM

Purpose

- To provide an assessment of the fiscal plan that incorporates the impact of Ministry PRRT requests, proposals for scalable priority investment opportunities, and revenue updates. The following slides will:

Establish where we are now

- Take stock of current information and decisions to date
- Expected timing of key information flows required for decision-making on the fiscal architecture

Assess and measure the current fiscal gap against existing targets

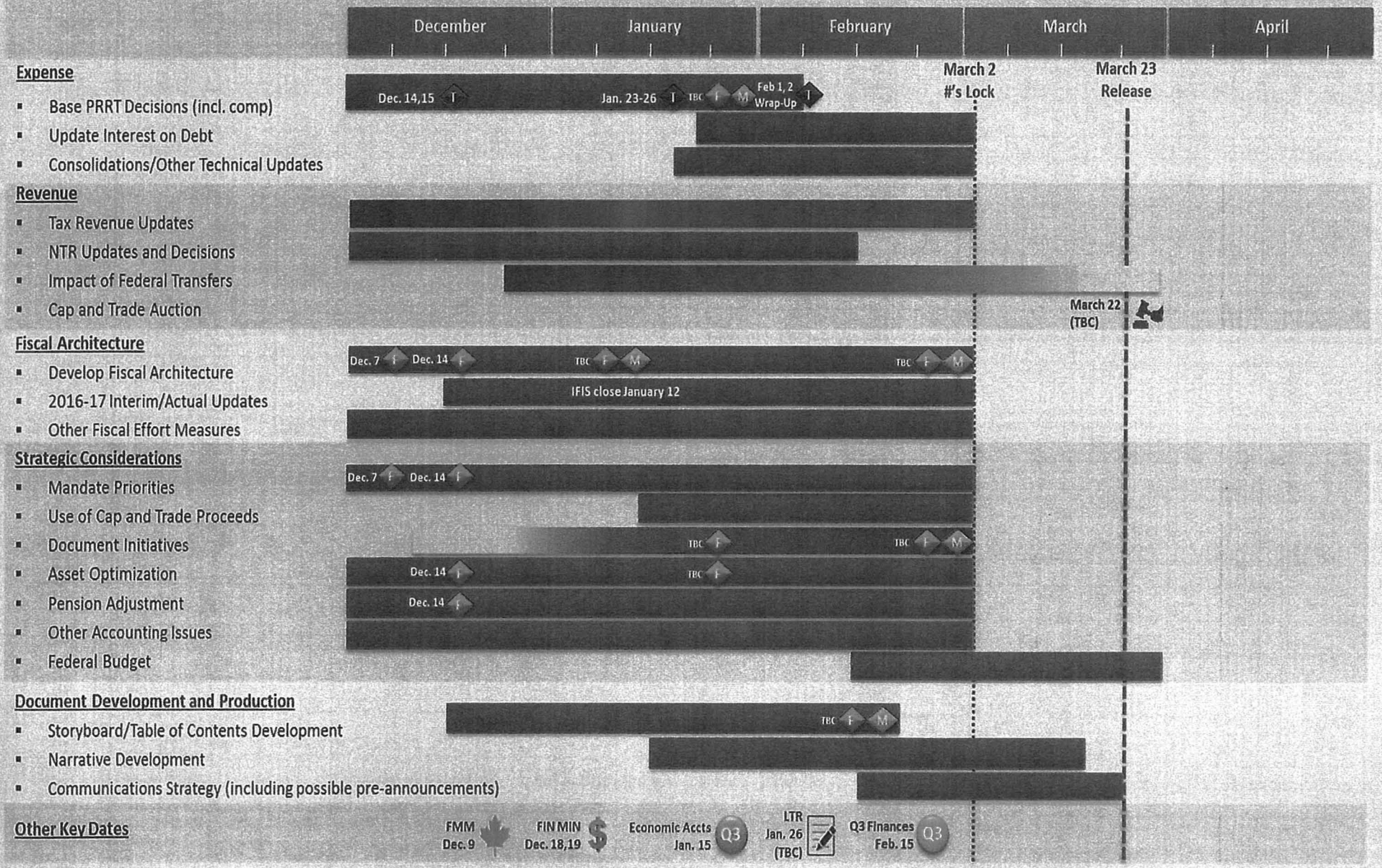
- Review state of the fiscal framework, including the size and composition of the gap
- Identify tools taken on in the 2016 Budget and 2016 FES to close the gap
- Highlight additional pressures and risks associated with the current fiscal plan and the additional fiscal effort that may be required

Outline next steps

- Highlight key discussions and upcoming meetings

Information and Decision-Making Path

2016 FES to 2017 Document Planning Process



Information to Inform Fiscal Architecture

Information Received to Date	Expected Timing of Updated Information
✓ Release of Preliminary Allocations ✓ Ministry PRRT submissions ✓ Proposals for scalable priorities ✓ Updated Equalization revenue estimates arising from 2015 Provincial Economic Accounts ✓ Partial update to 2015 tax assessments ✓ Revised private sector economic growth projections.	✓ Federal Transfers (CHT, CST, Equalization) by mid-December 2016; ✓ HST in December 2016 ✓ CIT and PIT mid-January 2017 ✓ TB/MBC review of PRRT plans December 14 – February 2 ✓ Report back from pension panel – late December/early January ✓ First Cap & Trade Auction – March 22 (TBC) ✓ Q3 Provincial Economic Accounts – mid January

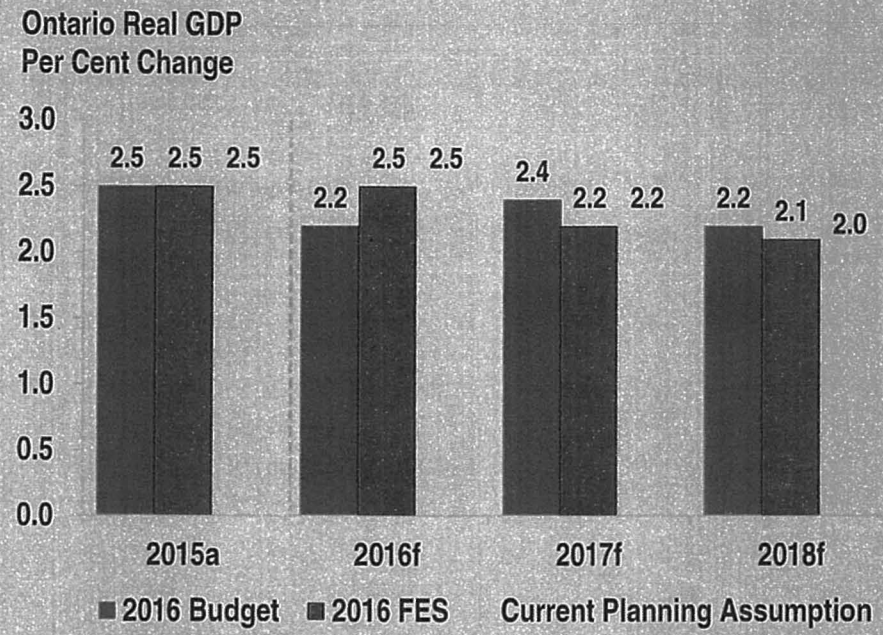
Timing of key decisions

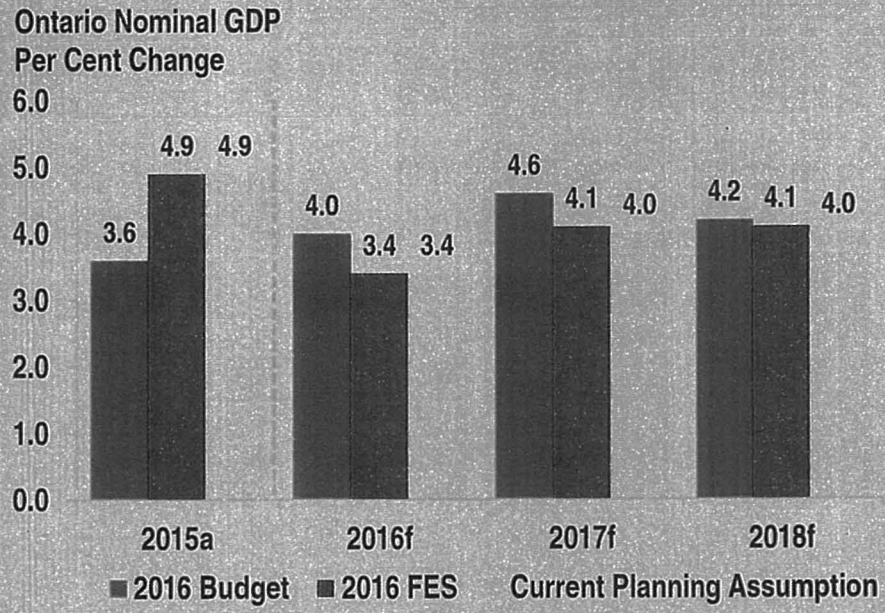
Updates to revenue and expense figures will inform decisions that will be deferred to the Document process (i.e. strategic priorities, Document initiatives, and use of tools)

- ✓ Decisions on initiatives will be required by early-mid February;
- ✓ Numbers locked by early March (placeholder later March release).

Current Status of the Fiscal Plan

Economic Forecast





Upside Potential

- Stronger exports from low dollar and U.S. fiscal stimulus
- Stronger domestic consumption and investment spending due to low interest rates and oil prices
- Continued strength in housing

Downside Risks

- Global economic and geopolitical uncertainty
- Volatility in financial markets
- Housing market downturn
- Softer household spending
- Intensification of global competition (e.g Mexico, China)
- **Trade protectionism**

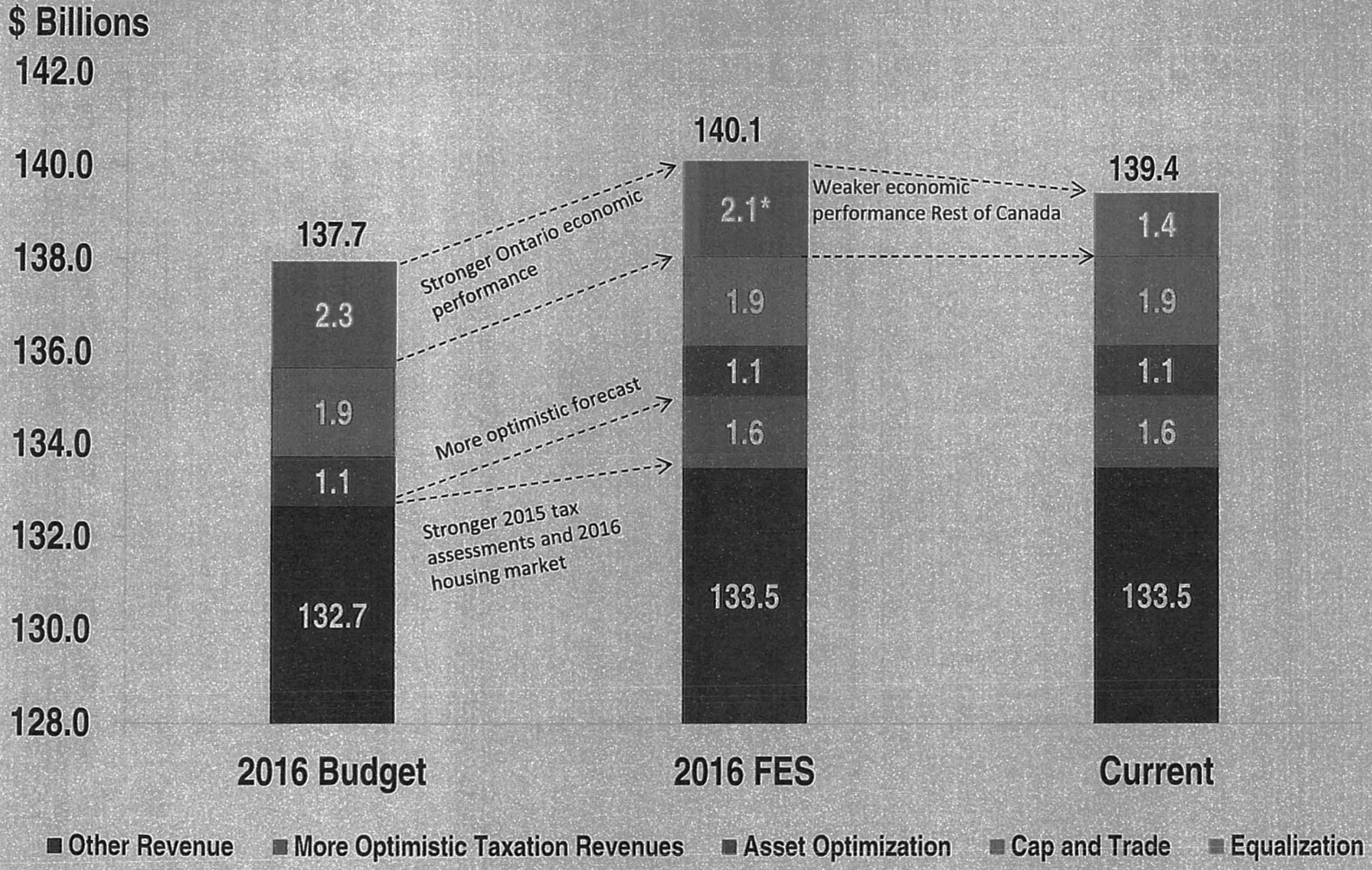
Evolution of Revenue Outlook and Key Assumptions

$ Billions	2016-17	2017-18	2018-19
2016 Budget Revenue Outlook	130.6	137.7	141.9
Changes from Budget to 2016 FES			
Base Revenue Forecast Updates			
Equalization Update	–	(0.4)	(0.8)
Other net Federal Transfer changes	(0.3)	(0.3)	(0.7)
PIT 2015 carryforward	0.6	0.6	0.6
Other Revenue Updates (mainly taxation)	0.9	0.8	1.2
Sub-Total Base Revenue Forecast Updates	**1.2**	**0.6**	**0.2**
add: FES Revenue Tools			
CIT Revenue Yield	0.3	0.5	0.7
HST	0.3	0.3	0.3
Revised: Unconditional Federal infrastructure funding	–	0.5	1.0
Equalization	–	0.2	0.5
Government Business Enterprises	0.2	0.2	0.2
Other NTR (recoveries)	0.1	0.1	0.1
Sub-Total FES Revenue Tools	**0.9**	**1.8**	**2.7**
Total Changes from Budget to 2016 FES	**2.1**	**2.4**	**3.0**
2016 FES Revenue Outlook	132.7	140.1	144.9
Changes Since 2016 FES			
Corporate Income Tax (2015 assessments)	0.3	0.1	0.1
Slower Economic Growth	0	(0.1)	(0.2)
Equalization (mainly 2015 PEA)	0	(0.7)	(0.8)
Total Changes Since 2016 FES	**0.3**	**(0.7)**	**(0.9)**
December Revenue Outlook	133.0	139.4	144.0
Total Changes Since 2016 Budget	**2.4**	**1.7**	**2.1**
Less: Federal Infrastructure Flow-Throughs in FES (Strategic Investment Fund and Clean Water Wastewater Fund)	0.4	0.6	0.2
Total Changes Since 2016 Budget excluding Federal Infrastructure Flow-Throughs	**2.0**	**1.1**	**1.9**

Revenue tools on slide 14

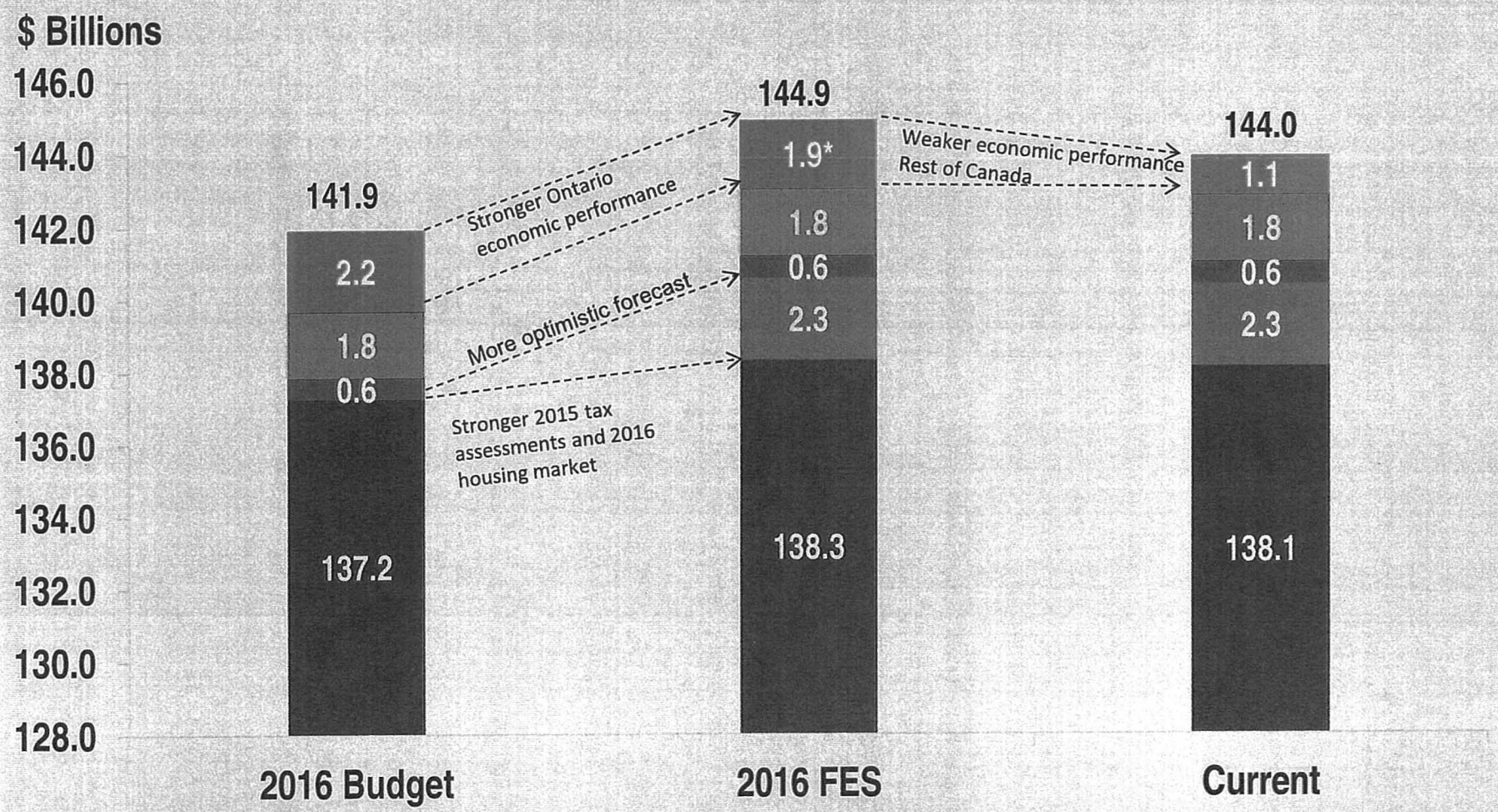
Stronger Revenue Outlook on slides 16 & 17

Ontario Revenue Projections for 2017-18



*The Equalization figure for 2016 FES includes the revenue tool of $0.2B.

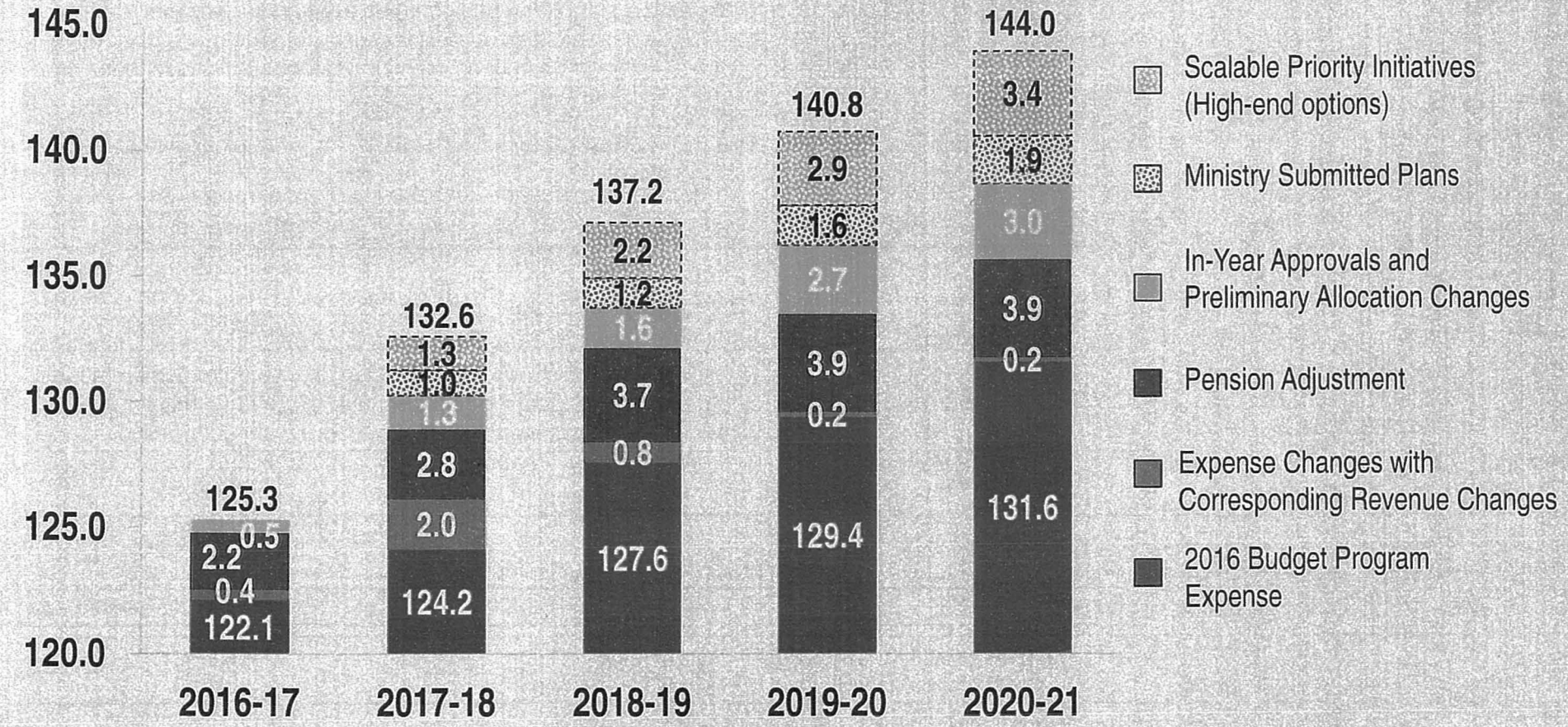
Ontario Revenue Projections for 2018-19



*The Equalization figure for 2016 FES includes a revenue tool of $0.5B

Confidential Advice to Cabinet – PRELIMINARY DRAFT, All numbers to be confirmed

Program Expense Changes Since the 2016 Budget



Tools Included in the 2016 Budget

$ Billions	2017-18	2018-19	Risk Assessment	Timing of Outcome/Decision
Prudence	**0.1**	**n/a**	**Low**	**n/a**
Reduced the reserve from $1.2 billion to $1.1 billion in 2017-18. 2018-19 reserve of $1.2 billion was unchanged.				
Cap and Trade	**0.6**	**0.6**	**Low – 2017-18 High – 2018-19**	**2017 Doc/ March Auction**
Impact of a strategy that meets the government's climate change objectives while providing a benefit to the fiscal plan by funding $0.6B in plan projects annually with projected Cap and Trade proceeds.				
Other Revenue Measures	**0.1**	**0.2**	**Low**	**Implemented**
Tobacco tax increase of $3/carton in 2016-17 and indexation thereafter, and the wine strategy.				
Re-profile Asset Optimization Strategy	**0.3**	**–**	**Low**	**Pending**
Strategy assumed sale of OPG headquarters was delayed from 2016-17 to 2017-18.				
Federal Revenue	**1.3**	**1.3**	**High**	**Dec 2016 FMM/ 2017 Fed Budget**
Assumed a potential impact of $1.0 billion in each of 2017-18 and 2018-19 in unconditional infrastructure funding in each year (for in-plan projects). In addition, per-capita homecare and jobs and training funding in each fiscal year (applied to existing spending).				
Update Interest on Debt Outlook	**0.3**	**0.4**	**Low**	**Jan/Feb 2017**
Revised IOD outlook, reflecting updated interest rate forecasts.				
Key Tools included in the 2016 Budget Fiscal Outlook	**2.8**	**2.5**		

Risk Assessment	
Low	Tool is likely to fully materialize
Medium	There is some uncertainty whether the tool will fully materialize
High	Significant uncertainty whether the tool will fully materialize

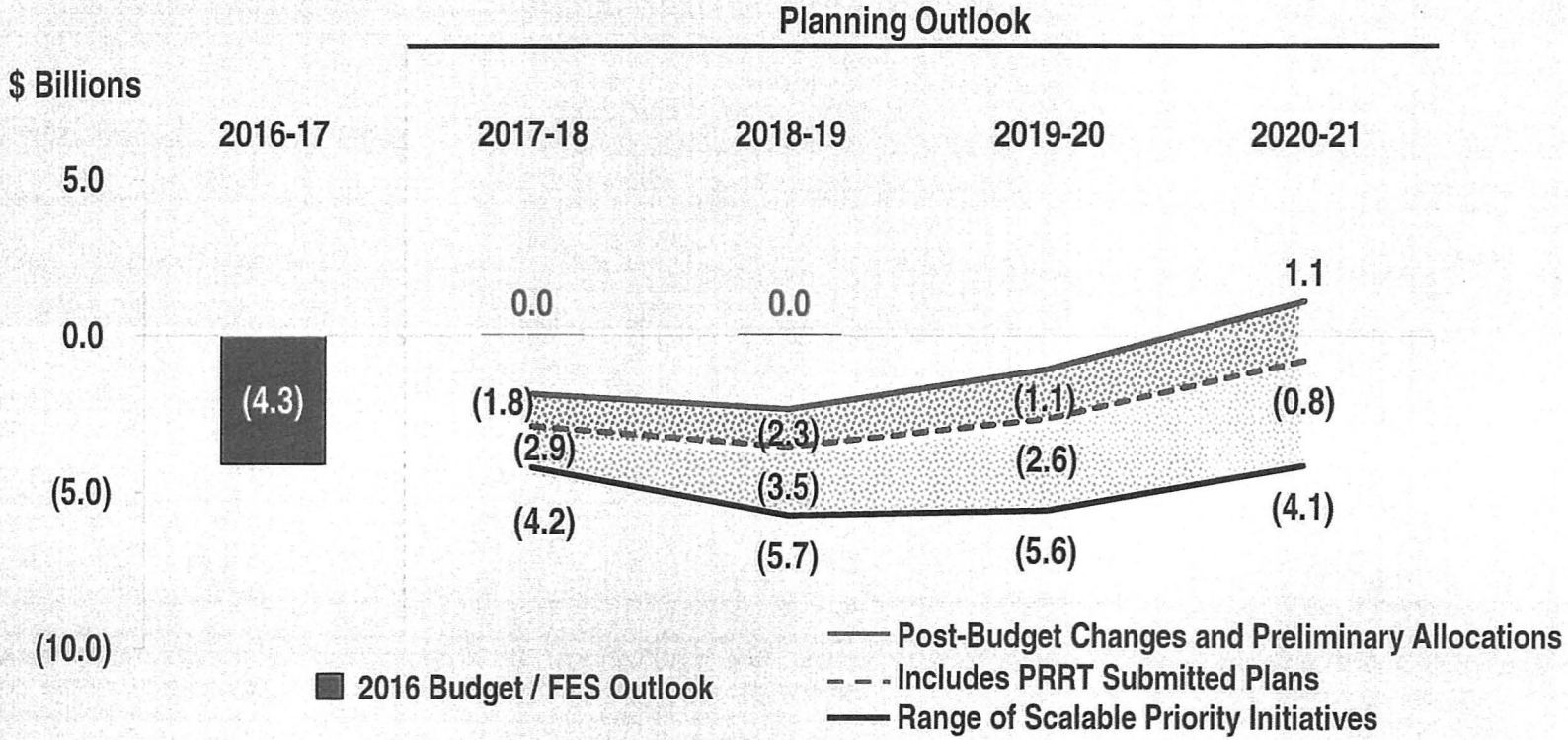
Assumptions and Tools Included in the 2016 FES

$ Billions	2017-18	2018-19	Risk Assessment	Timing of Outcome/Decision
Revenue Tools	**1.8**	**2.7**		
The FES included more aggressive forecasts for economic growth, federal transfers, and non-tax revenues.				
Taxation				
CIT Revenue Yield	0.5	0.7	**High**	**2017-18 Pub. Accts.**
HST higher revenues	0.3	0.3	**Low**	**December 2016**
Federal Transfers (unconditional)	0.7	1.5	**High**	**Dec 2016 FMM/ 2017 Fed Budget**
Government Business Enterprises	0.2	0.2	**Medium**	**Dec – Jan**
Other Non-tax Revenue	0.1	0.1	**Low**	**2017-18 Pub. Accts.**
Prudence	**1.2**	**1.2**	**High**	**n/a**
The Contingency Funds were drawn down by $0.6 billion in 2017-18 and 2018-19; the Year-End Savings Targets were increased by $0.2 billion in each year, and the Reserve was reduced by $0.4 billion in both years.				
Interest on Debt	**0.8**	**0.7**	**Medium**	**Jan/Feb 2017**
The FES outlook included a significant increase to estimated interest on debt savings.				
Key Tools included in the 2016 FES Fiscal Outlook	**3.7**	**4.6**		
Other Revenue assumptions: PIT carry forward	**0.6**	**0.6**	**Medium**	**June-Dec 2017**

Risk Assessment	
Low	Tool is likely to fully materialize
Medium	There is some uncertainty whether the tool will fully materialize
High	Significant uncertainty whether the tool will fully materialize

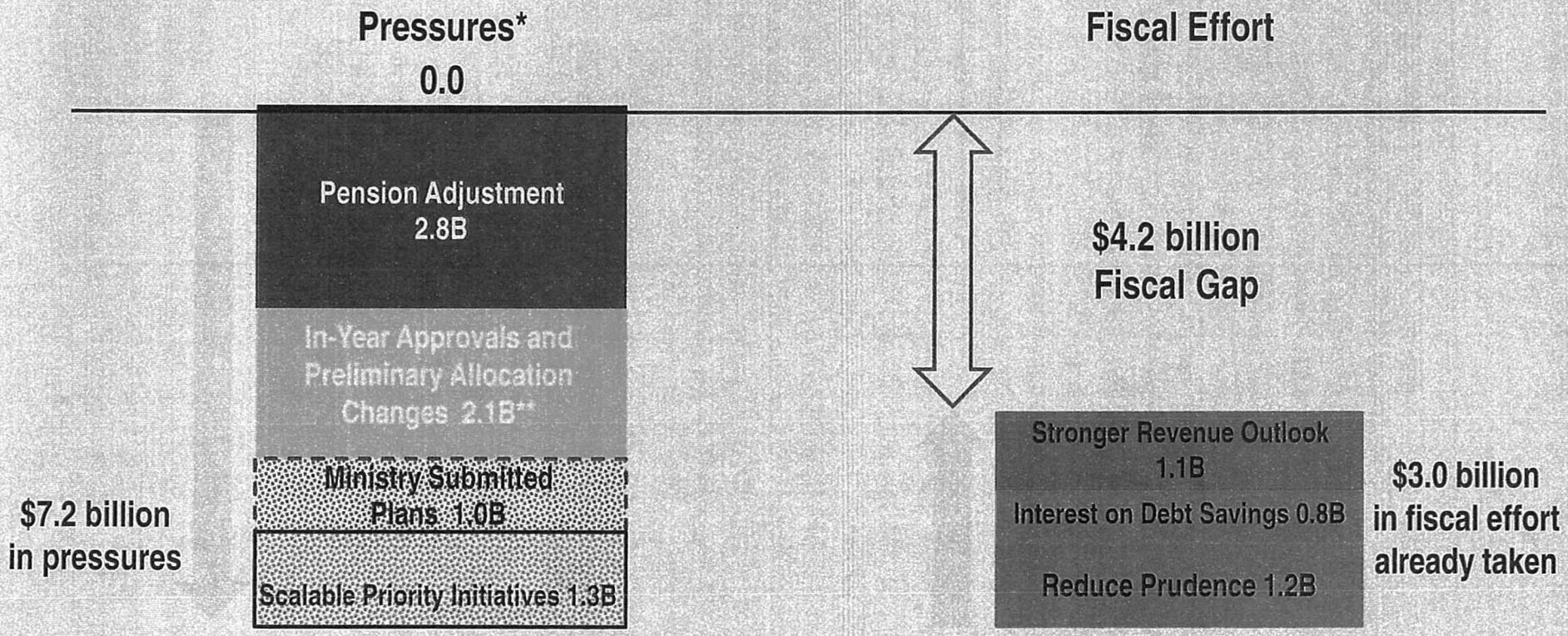
The Multi-Year Fiscal Challenge

- Compared to the 2016 Budget, the impact of in-year investment decisions and the Pension Adjustment created pressures that were partially mitigated by higher revenue, lower interest on debt expense, and reduced prudence in the 2016 FES. These changes, in addition to the recent downward revision in the equalization entitlement forecast, results in a fiscal gap of $1.8 billion in 2017-18 and $2.3 billion for 2018-19 .
- This fiscal gap widens with the additional impact of PRRT submitted plans coming in above preliminary allocations.
- Without implementing additional revenue and expense tools, the deficit could potentially reach $4.2 billion in 2017-18 and $5.7 billion in 2018-19.
  - Since October, the range of the fiscal gap has widened mostly as a result of lower equalization entitlements mentioned above, and ministry PRRT submissions coming in above preliminary allocations.



The Fiscal Challenge: Gap in 2017-18

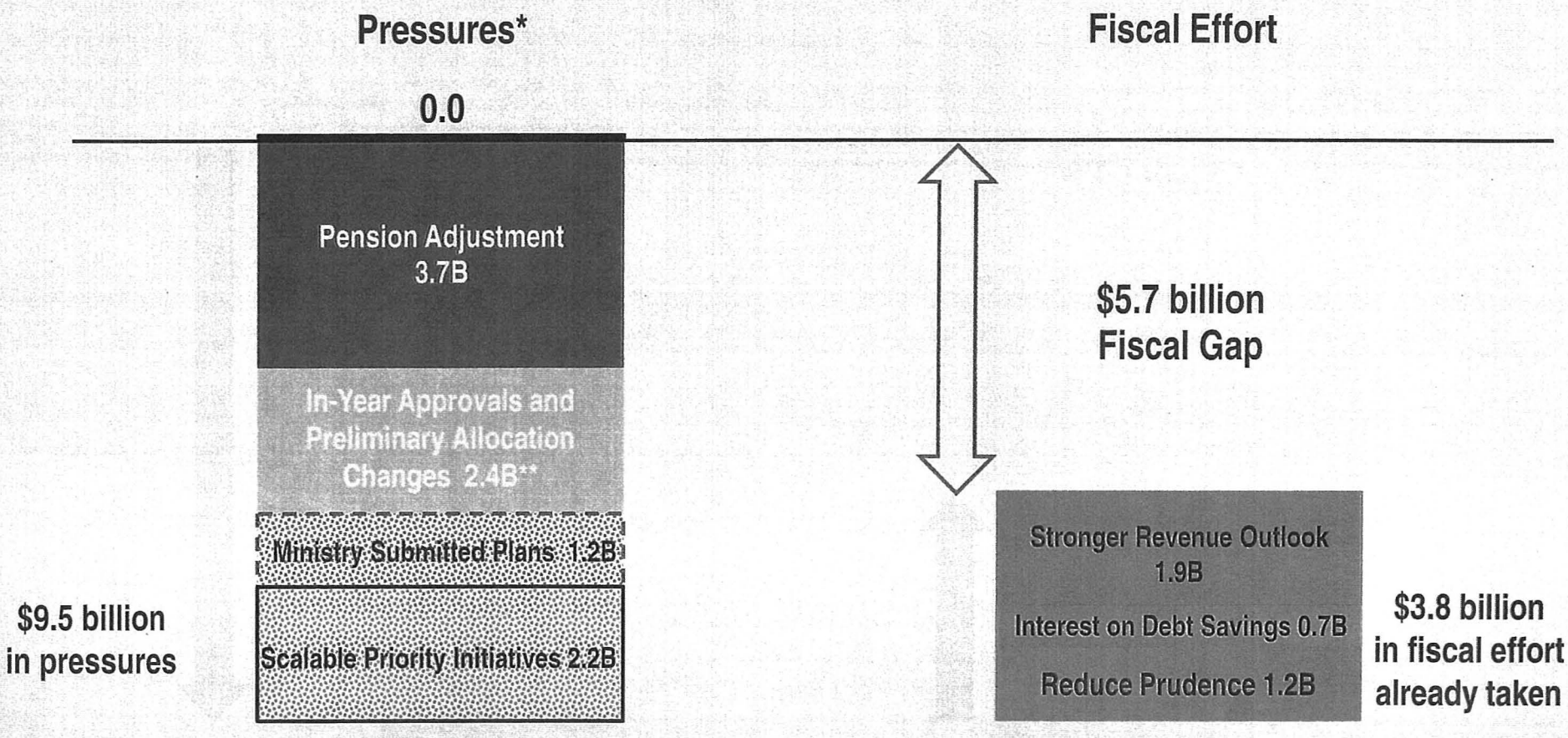
- In 2017-18, pressures of $7.2 billion exists as a result of a combination of the Pension Adjustment, in-year approvals, ministry submitted PRRT plans, and scalable priority initiatives.
  - The pressures are partially mitigated through a stronger revenue outlook, interest on debt savings, and a reduction in prudence totaling $3.0 billion.
- After accounting for the fiscal effort, a gap of $4.2 billion still remains in 2017-18.



*Excludes Document Initiatives Envelope
**Excludes the Contingency Funds and Year-end Savings target tools of $(0.8) billion.

The Fiscal Challenge: Gap in 2018-19

- Similarly, in 2018-19, pressures of $9.5 billion exists, which are partially mitigated with fiscal efforts totalling $3.8 billion, resulting in a remaining fiscal gap of $5.7 billion.



*Excludes Document Initiatives Envelope
**Excludes the Contingency Funds and Year-end Savings target tools of $(0.8) billion.

Current Fiscal Outlook Gap – 2017-18

PRRT Submitted Plans above Preliminary Allocations*

- Social Assistance forecast
- Clean Water and Wastewater Fund provincial contribution
- Electricity Rebate – revised forecast
- Further OSAP enhancements
- Cost and/or timing changes for municipal and provincially owned transit projects (e.g., Ottawa LRT Phase 1, Waterloo RT, Metrolinx projects)
- TTC PRESTO

Scalable Priority Investment Initiatives

- Highly skilled workforce investments
- More funding for Project Momentum
- Early years and child care space expansion
- Social assistance rate increase and reforms
- MCSS Response to Ombudsman
- Priority health investments
- Corrections transformation
- Youth Jobs strategy
- GO Transit / RER Operating Subsidy
- Other capital expense (e.g., Ontario 150)

Not Included in Gap

- Document initiatives envelope
- Additional electricity price relief
- Education remedy rollover

Additional New Capital Asks Not included in the Gap

- New facilities including Halton Consolidated Courthouse, correctional facilities, resources road labs
- Funding to reduce GHG emissions and facilities renewal in government realty portfolio

* Based on ministry requests. Does not reflect potential recommendations.

Other Factors That Could Further Impact the Gap

- There are still other factors that could potentially impact the fiscal gap:

Revenue	Expense
▪ Economic updates ▪ Estimated proceeds for cap-and-trade ▪ Adjustments to the government's asset optimization strategy ▪ Key revenue information in December and January, including federal HST update, and Equalization entitlements, and finalization of PIT and CT assessments. ▪ Monthly updates to personal and corporate income tax and income from Government Business Enterprises	▪ Ability to meet year-end savings targets ▪ Decisions related to PRRT items that may be deferred to the 2017 Document process, including: ▪ 2017 Document initiatives ▪ Alignment of climate change investments with available proceeds, and accounting treatment ▪ Interest on debt forecast updates ▪ Treatment of Pension Accounting and other accounting issues ▪ Impact of expense pressures that ministries have been asked to manage

Next Steps

STAGE 1 - Where are we now?	
FPC Meeting December 7	• Assess current fiscal plan • Take stock of information/decisions to date and information to come • Identify pressures and risks to the fiscal plan, composition of gap and tools already used
TB/MBC PRRT Meeting December 14	• Provide members with an assessment of current fiscal plan • Present fiscal gap, including impact of ministry submitted plans and scalable priority initiatives
STAGE 2 - Where do we go from here?	

FPC Meeting
December 14
	• Establish a way forward
	  • Determine anchors/fiscal targets around which the fiscal plan to be published in the 2017 Document can be built
	  • Discuss strategic tools necessary to implement plan

STAGE 3 – Fiscal Architecture Planning for the 2017 Document	

Strategies Meeting
Date TBD
	• With greater clarity around the tools available, discuss prioritizing initiatives for 2017 Document.
	  • Prioritize scalable initiatives relative to the use of tools
	  • Discuss potential themes for 2017 Document

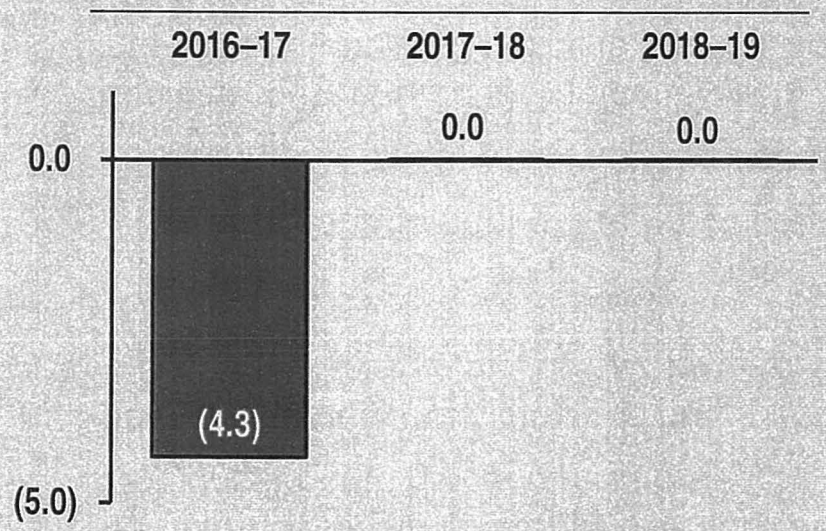
Appendix – 2016 Budget Assumptions

2016 Budget Recap

In the 2016 Budget, the government forecasted deficits of $4.3 billion in 2016-17, a return to balance in 2017-18, and continued balance in 2018-19.

2016 Budget Fiscal Targets

Fiscal Balance
($ Billions)



Revenue Plan (2016-17 to 2018-19)

- **$3.4 billion** over three years in new, unconditional federal funding for infrastructure, home care and jobs and training
- **$4.2 billion** over three years in Cap-and-Trade proceeds
- **$1.3 billion** over three years in tax measures

Expense Plan (2016-17 to 2018-19)

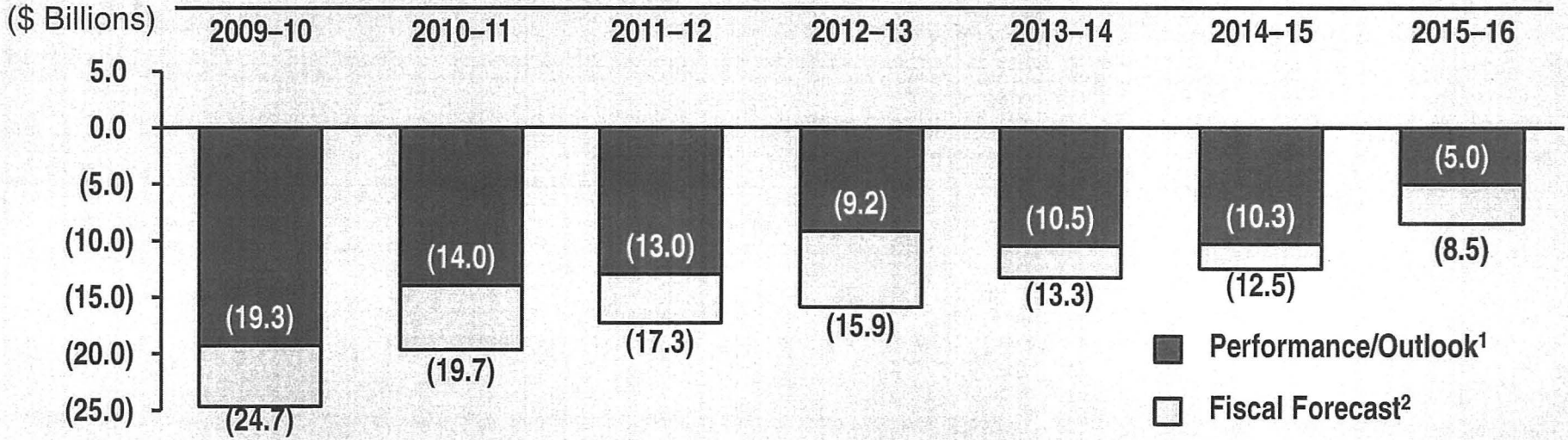
- **$1.3 billion to $2.5 billion** per year in reduced expense from major transformation initiative plans (i.e. boulders)
- **Full Cap-and-Trade proceeds** available to fund both in-plan ($0.6 billion/year) and new climate change initiatives in 2017-18 and 2018-19
- **Contingency Funds** of $1.2 billion in 2016-17, growing to $3.5 billion in 2018-19, with portions notionally set-aside for compensation and Moving Ontario Forward

Reserve of $1.0 billion in 2016–17, $1.1 billion in 2017–18, $1.2 billion in 2018–19

Ontario's Record Against Deficit Targets

- The Province has consistently overachieved on its deficit targets since it fell into deficit in 2009-10 at the onset of the global recession.
- The fiscal strategy has focussed on:
  - Managing the overall rate of growth in program spending;
  - Strengthening revenue growth;
  - Prudent management of the Province's interest on debt expense; and
  - Ensuring adequate prudence in place to protect the fiscal plan from unexpected changes.
- Each year between 2009-10 and 2015-16, the government has beaten its deficit target. As a result, Ontario's accumulated deficit is $30.7 billion lower than it otherwise would have been.

Fiscal Balance

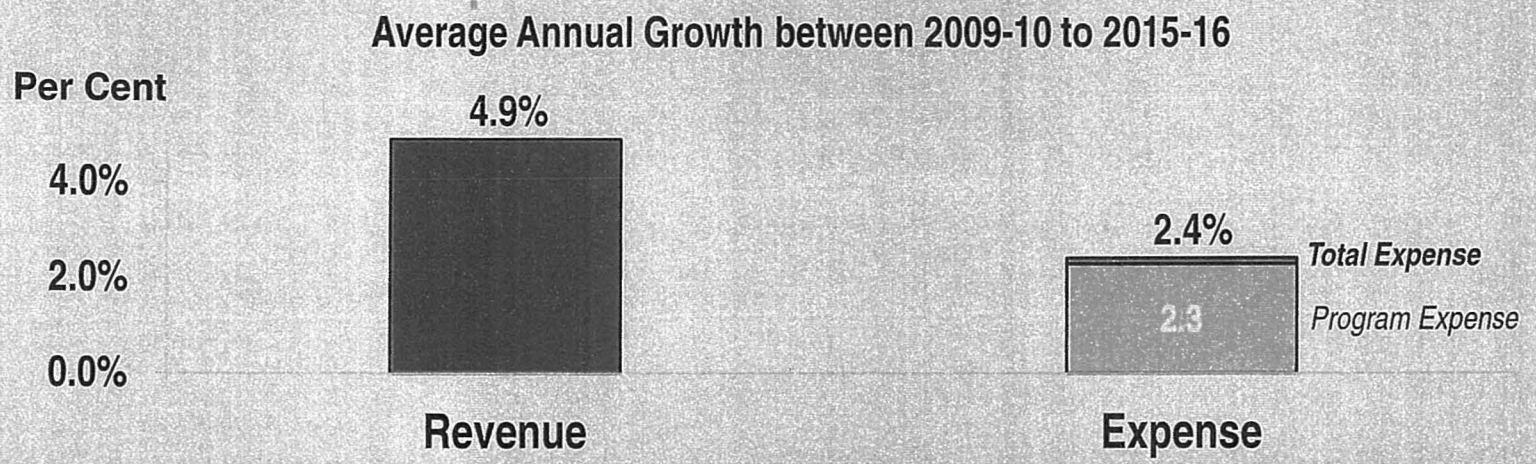


[1] For 2009–10 to 2015–16, actual results are presented. 2015–16 actual results reflect the accounting treatment adopted in the *Public Accounts of Ontario 2015–2016* including the Pension Adjustment related to net pension assets.

[2] Forecast for 2009–10 is based on the *2009 Ontario Economic Outlook and Fiscal Review*, 2010–11 to 2013–14 is based on the *2010 Budget*; 2014–15 is based on the *2014 Budget*; and 2015–16 is based on the *2015 Budget*.

Source: Ontario Ministry of Finance.

Revenue and Expense Growth



Strengthening Revenue

Revenue has grown at an average annual rate of 4.9 per cent since the 2009-10, as a result of:

- Economic growth
- Targeted tax measures
- Asset Optimization and Income from GBE's
- Growing federal transfers
- Combatting the Underground Economy

Managing Expense Growth

Program expense growth has been held to an average annual rate of 2.3 per cent since 2009-10, as a result of:

- Net-zero compensation policy
- In-year expenditure management strategies
- Savings from efficiencies and transformation initiatives through the annual PRRT process.

This reflects significantly lower growth compared with the historical average annual growth rate between 2003-04 and 2009-10 of 7.2 per cent.

Other Progress

In addition to revenue and program expense tools, the government has benefited from lower than forecasted interest on debt and unused prudence:

- Interest on debt savings since 2009-10 of $22.8 billion.
- Reserve has helped to mitigate the impact of in-year revenue declines and/or beat deficit target.

Appendix – Changes from 2016 Budget

Federal Revenue Risks

- The 2016 Budget plan included an assumptions that Ontario would receive **$3.4 billion in new unconditional federal revenue** ($2.5 billion in infrastructure alone) over three years.
- Recent progress on infrastructure agreements with the federal government suggest that Ontario's share of **new federal funding will not be unconditional block transfers.**
  - Instead, recent progress on agreements indicate a **requirement for some form of cost-matching/sharing** by Ontario, or flow to municipalities (e.g. transit).
- As part of the 2016 Ontario FES framework to address pressures to the plan, the fiscal outlook maintained funding assumptions for health and training, and reduced assumptions for infrastructure.

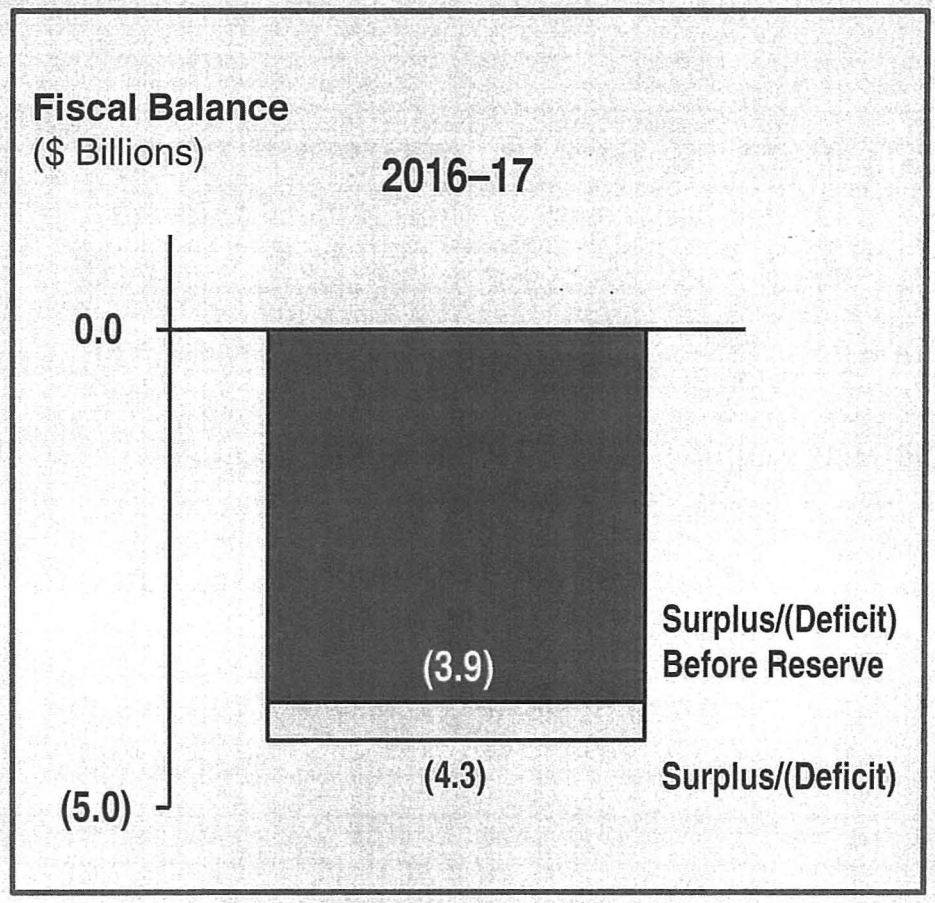
New Federal Revenue Assumptions: Unconditional Funding

	2016 Budget				2016 FES		
$ Billions	**2016-17**	**2017-18**	**2018-19**		**2016-17**	**2017-18**	**2018-19**
Infrastructure	0.5	1.0	1.0	Infrastructure	-	0.5	1.0
Home Care	0.2	0.3	0.2	Home Care	-	0.3	0.2
Training	0.1	0.1	0.1	Training	0.1	0.1	0.1
Total	**0.7**	**1.3**	**1.3**	**Total**	**0.1**	**0.8**	**1.3**

- There are further Equalization downside risks to 2017-18 and beyond related to ongoing improvement in Ontario's relative fiscal capacity. Compared to both Budget 2016, and the Ontario FES, the Province's Equalization in 2017-18 is expected to decline significantly.
- Work is currently underway to leverage opportunities for federal investment, including federal-provincial-territorial engagement on the Canada Health Transfer.

2016-17 Update

In the 2016 FES, the government used a number of tools in order to maintain the $4.3 billion deficit target and mitigate the impact of the Pension Adjustment and new investments. There are risks to whether the government will be able to continue to project an interim deficit of $4.3 billion in the 2017 Document.



Key risks include:

- Final impact of the Pension Adjustment
- Reserve of only $0.4 billion remaining
- Contingency funds of only [$0.7 billion] remaining
- Achieving the $0.8 billion year-end savings target
- Results of the cap and trade auction and being able to recognize revenue in this fiscal year
- Other accounting risks (i.e., IFRS)

In January, updated revenue and expense information will become available that will provide a better indication of what the actual 2016-17 deficit will be.

In-Year and Preliminary Allocation Changes

$ Millions	2017-18	2018-19	2019-20	2020-21
In-year Approvals and Preliminary Allocation changes[1]				
MOHLTC: Base funding increase	140	280	420	560
* MOHLTC: Revision to Drug Strategy	170	188	238	288
* MOHLTC: First Nations Health Action Plan	64	88	87	87
* EDU: School Renewal (for 2 years)	44	42	42	42
* EDU: School Board Principals and Vice-Principals	8	14	15	15
MAESD: OSAP 2016 Budget commitment	50	50	50	50
* MCYS: Child Welfare Reform	3	35	46	50
* MCYS: First Nations Health Action Plan	12	18	18	18
* MCYS: Autism Reform	65	5	5	-
MCSS: Funding for forecasted Social Assistance pressures	286	450	541	641
* MCSS: Child Support Payments Exemption	15	15	15	15
OMAFRA: Relief from Business Supports savings target	79	79	79	79
* ENERGY: Electricity Price Mitigation (net of cap-and-trade offset)	946	944	944	944
* ENERGY: First Nations H1 Ownership	15	15	15	-
MTCS: Relief from Business Supports savings target	44	44	44	24
MTCS: Fort William Flood Mitigation Project Delay	9	-	-	-
* MTO: UP express operating subsidy	37	38	36	37
MTO: Transit funding (Yonge north subway, relief line, other municipal transit)	62	40	74	50
TBS: Bulk Media Buy Base Increase	10	10	10	10
* Various ministries: New resource requirements	29	27	27	27
Various ministries: Tax credit and other forecast updates	23	5	20	44
Contingency Fund: 2016 FES changes	(581)	(600)	-	-
Year-end Savings: 2016 FES changes	(200)	(200)	-	-
All other changes	3	5	8	9
Total In-year Approvals and Preliminary Allocation changes[1]	**1,331**	**1,590**	**2,733**	**2,989**

* In-year Approval

[1] Excludes items with a corresponding change in revenue

Key Revenue Risks

Source	2016-17	2017-18 and onwards	Key Information Timing
Economic Growth Outlook	+/-$0.2B	+/-$0.5B	2016Q3 Ontario Economic Accounts release January 13th
2015 Personal Income Tax Assessments	+/-$0.2B	+/- $0.1B	Late in January 2017.
2016 PIT Assessments (Tax Planning Risk)	-$1.2B to $0.0B	-$0.6B to $0.0B	Risk assessment research ongoing. Preliminary 2016 assessment information will begin flowing in June 2017.
2015 Corporate Income Tax Assessments	+/ - $0.8B	+/ - $0.4B	Late in January 2017.
Harmonized Sales Tax	+/ - $0.4B	+/ - $0.6B	Mid-December 2016.
Land Transfer Tax	+$0.2B	+$0.2B	Monthly collection and housing market performance.
Equalization	-	-$0.3B 2017-18, -$0.5B in 2018-19	Mid-December 2016.
Cap and Trade Proceeds	-$0.4B to $0.0B	-$1.0B to $0.0B	Late March 2017.
Government Business Enterprises	+/-$0.2B	+/-$0.3B	Ongoing updates from OLG, LCBO, OPG and Hydro One
Asset Optimization Target	TBD	TBD	TBD
Total Risk Ranges	-$3.2B to $2.0B	-$4.4B to -$2.0B	

Key Accounting Issues

1. **Pension Asset Accounting**
   - AG interpretation of fiscal impact included in FES ($2.2B in 2016-17, $2.8B in 2017-18, $3.7B in 2018-19, and $3.9B in 2019-20)
   - Expert Panel in progress (completed two meetings); Panel meeting AG on Dec 16
   - Exploring options re: negotiating with OTF should Panel not agree with Province

2. **Consolidation reporting basis for H1 and OPG (US GAAP vs. IFRS)**
   - Differences between US GAAP and IFRS could be up to $1 billion in 2016-17 (increased deficit); not reflected in FES; most of impact is related to OPG and the accounting differences related to its asset retirement obligations
   - Working with OPG to further refine estimates
   - Exploring options – legislation (accounting and AG Act), conversion to IFRS, approaching PSAB again

3. **Cap and Trade accounting (accounting for proceeds from auction)**
   - Auction proceeds of $478 million included in FES for 2016-17
   - First auction scheduled for March 22, 2016; Emission Allowances (EAs) transferred to participant account several weeks later (likely in fiscal 2017-18); preliminary accounting assessment – revenue is recognized when EAs are transferred to participant accounts
   - Exploring whether earlier recognition is supportable

Contingency Fund Status / Year-end Savings

As part of PRRT submissions, ministries have presented requests for which funding had been set-aside. As a result, the contingency fund balance for planning purposes is reduced.

Furthermore, should remaining set-asides be used, the contingency fund balance would be in deficit in 2017-18, with a relatively small positive balance for the remaining years.

$ Millions	2017-18	2018-19	2019-20	2020-21
2016 Budget Opening Balance	**1,716**	**3,499**	**3,870**	**4,577**
2016 FES reduction	**(581)**	**(600)**	**-**	**-**
Set-asides likely to be consumed as part of PRRT				
MOHLTC: Various initiatives and pressures	(529)	(729)	(847)	(981)
MCSS: Benefits Transformation pressures	(55)	(50)	(30)	(15)
Various ministries: Action Plan For Reconciliation	(90)	(102)	(93)	(93)
Various ministries: Strategy to End Human Trafficking	(15)	(16)	(22)	(22)
MCSCS: OPP and corrections agreements	(55)	(73)	(79)	(79)
MCSCS: First Nations Policing	(15)	(14)	(14)	(14)
MOECC: Drive Clean	(39)	(39)	(39)	(39)
MEDG/MRIS: Natural Gas Access Loan Program	-	(17)	(12)	-
MEDG/MRIS: Strategic Community Infrastructure Fund	-	(66)	-	-
MMA/MHO: Social Infrastructure Fund	-	(35)	-	-
MTO: Moving Ontario Forward (Kitchener, Ottawa, London)	-	(227)	(178)	(205)
Various: Other items (Anti-Racism Directorate, Motherisk)	(8)	(2)	(1)	(1)
Total Set-asides likely to be consumed as part of PRRT	**(805)**	**(1,368)**	**(1,313)**	**(1,448)**
Contingency Fund Balance for Planning Purposes	**330**	**1,531**	**2,557**	**3,130**
Total remaining set-asides	585	1,225	2,065	2,847
Projected balance of contingency fund	(255)	305	492	283
2016 Budget Year-End Savings Target	**(1,000)**	**(1,025)**	**(1,075)**	**(1,150)**
Change to Year-End Savings in 2016 FES	(200)	(200)	-	-
Current Year-End Savings Target	**(1,200)**	**(1,225)**	**(1,075)**	**(1,150)**

Changes to Fiscal Gap Measurement

The estimate of the fiscal gap, including potential priority investments, has increased by $0.6 billion in 2017-18 and $1.5 billion in 2018-19 compared to the gap estimated at the time of the Fall Statement and presented to Cabinet. This change reflects lower revenue from updated equalization entitlements and the impact of ministry PRRT plans relative to preliminary allocations.

October/FES Fiscal Gap $ Billions	17-18	18-19	Additional Changes 17-18	 18-19	Current Fiscal Gap 17-18	 18-19
Revenue	**140.1**	**144.9**	–	–	**140.1**	**144.9**
Post-FES Forecast Changes	–	–	*(0.7)*	*(0.9)*	(0.7)	(0.9)
Ministry Submitted Revenue Offsets	–	–	*1.4*	*0.6*	1.4	0.6
Total Revenue	**140.1**	**144.9**	***0.7***	***(0.3)***	**140.8**	**144.6**
Expense						
Program Expense	129.4	133.5	*0.5*	*0.9*	129.9	134.3
Items Under Consideration/Scalable Priority Initiatives	1.9	2.5	*(0.6)*	*(0.3)*	1.3	2.2
Items with Revenue Offsets	–	–	*1.4*	*0.6*	1.4	0.6
Total Program Expense	**131.3**	**136.0**	***1.3***	***1.2***	**132.6**	**137.2**
Interest on Debt	11.7	12.4	–	–	11.7	12.4
Total Expense	**143.0**	**148.4**	***1.3***	***1.2***	**144.3**	**149.6**
Reserve	0.7	0.8	–	–	0.7	0.8
Surplus/(Deficit): Fiscal Gap	**(3.6)**	**(4.3)**	***(0.6)***	***(1.5)***	**(4.2)**	**(5.7)**

Mainly lower Equalization entitlements

Fiscally Neutral revenue and expense increases

Ministry plans relative to preliminary allocations

No additional IOD savings

No additional reserve changes

~~Draft~~Consolidated Comments (Torys/OPG/Osler): November ~~2,~~8, 2017

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

~~[FINANCING ENTITY TRUSTEE] IN ITS CAPACITY AS TRUSTEE OF THE [FINANCING ENTITY]~~

FAIR HYDRO TRUST, BY ITS MANAGER, ONTARIO POWER GENERATION INC.

NO

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER

AND

~~[NAME OF INDENTURE TRUSTEE]~~BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

-subro

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), ~~[FINANCING ENTITY TRUSTEE]~~*Ontario Power Generation Inc.*, as the ~~Financing Entity Trustee~~Manager and in its capacity as ~~trustee of the [FINANCING ENTITY]~~Manager of Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario (the "**Financing Entity**"), Ontario Power Generation Inc. in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and ~~[INDENTURE TRUSTEE]~~BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee and in its capacity as trustee for the Beneficiaries in accordance with the Trust Indenture, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust dated as of ■, 2017, the ~~FSM established the~~ Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The ~~trustee~~FSM, as agent of the ~~Financing Entity in its capacity as~~ Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended. This Agreement sets out the terms and conditions of such protections and assurances.

~~OPG~~The FSM and the Province will concurrently enter into the Process Agreement, under which ~~OPG~~the FSM will agree to perform certain related activities and to provide certain

assurances on which the Province will rely, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation and ensuring that the Province's assumption right may be exercised without impediment on the terms and conditions contemplated in this Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, ~~the Financing Entity Trustee,~~ the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor, except in each case as referenced in the definition of Protection Event;

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same

may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

~~1.02 Trustee to act in accordance with the Trust Indenture~~

~~Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.~~

1.02 ~~1.03~~ Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.03 ~~1.04~~ Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised through the Indenture Trustee under, in accordance with and subject to the limitations set forth in the Trust Indenture. ~~No Specified Creditor will have any right to institute any proceeding, judicial or otherwise, with respect to this Agreement.~~

1.04 ~~1.05~~ Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other ~~agreement~~Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province upon performance by the Province of the Primary Obligation. To the extent of any conflict between this Agreement and the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 in respect of any matter relating to the Province's obligations to indemnify the FSM or the Financing Entity, the latter shall prevail.

1.05 ~~1.06~~ Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.06 ~~1.07~~ Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.07 ~~1.08~~ Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.08 ~~1.09~~ Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.09 ~~1.10~~ Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.10 ~~1.11~~ Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.11 ~~1.12~~ Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.12 ~~1.13~~ Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.13 ~~1.14~~ Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.14 ~~1.15~~ Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.15 ~~1.16~~ Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such

yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.16 ~~1.17~~ Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.17 ~~1.18~~ References to Acts of the Financing Entity ~~Trustee~~

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity ~~or the Financing Entity Trustee, as trustee of the Financing Entity,~~ is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to ~~(i)~~ the Financing Entity ~~or (ii) the Financing Entity Trustee~~, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the FSM as agent for the Financing Entity Trustee (in its capacity as trustee of the Financing Entity~~.~~). **[NTD: Discuss whether the Financing Entity Trustee should be a party to this Agreement and references to the Financing Entity Trustee re-inserted into this section and others.]**

1.18 ~~1.19~~ Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or

so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the ~~Financing Entity~~Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee can't be amt owing

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may provide a written demand, in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to pay the Approved Obligations owing from time to time by the Financing Entity to the Indenture Trustee as and when they become due and payable~~, without Acceleration~~[1]. A Payment Demand will not be valid with respect to an Approved Obligation until the amount claimed becomes due and payable in respect of the Approved Obligation ~~(without Acceleration)~~ in accordance with the Trust Indenture and has not otherwise been paid by the Financing Entity.

⇒ amt scheduled to be due

(b) Following receipt of a valid Payment Demand under Subsection 2.01(a), the Province shall pay the amounts owing by the Financing Entity to the Indenture Trustee, on behalf of the applicable Beneficiaries, in respect of each Approved Obligation[2], in each case as and when the Approved Obligation becomes due and payable in accordance with its terms and on its scheduled, specified or determined payment date, ~~as determined without regard to any Acceleration or rights of Acceleration arising under the Approved Obligation,~~ in each case by the Province depositing or causing the deposit of the applicable payment amount into the ~~Collection~~Protection Account 5 Business Days prior to the fifteen day of each calendar month (the "**Limited Guarantee**"). For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation~~, including (i) any amounts that are or become payable as a~~

[1] Consider mechanics for notifying the Province regarding the specific amounts payable and their due dates. Consider attaching a detailed schedule of payments under the Payment Demand and the respective due date of each payment.

[2] Under Subsection 5(3) of the Act, the Province can guarantee only obligations "associated with an investment interest". The guarantee in Section 2.01 of the draft agreement guarantees "Approved Obligations", which in turn relies on the definition of Primary Obligations. The connection between a Primary Obligations and an "investment interest" is therefore crucial. Blakes is considering how to more precisely connect these concepts.

- acceleration → even if monies owing under debt will be charged against ratepayer in period plus

~~result of the exercise of an option of the Financing Entity following a Protection Event, and (ii) amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account or a Supplemental Reserve Account~~.

why delete?

(c) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(d) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation.

(e) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages~~, or for economic loss or loss of profits~~.

No

2.02 ~~Gross-up~~

~~[~~All amounts payable by the Province under this Agreement shall be made free and clear of and without deduction for or on account of any present or future taxes, charges, fees, levies, duties or withholdings of any kind. If the Province is obliged to deduct or withhold an amount in respect of any such taxes, charges, fees, levies, duties or withholdings, then in such event the Province shall deposit into the ~~Collection~~Protection Account such additional amount as is necessary to ensure that the Indenture Trustee receives (on an after-tax basis, after payment of any and all income taxes on such additional amounts) an amount equal to the full amount otherwise due and payable in respect of the related Approved Obligation, net of any such taxes, charges, fees, levies, duties or withholdings.~~]~~[3]

2.03 Absence of Set-off

get 2 check FAA

The Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into ~~Collection~~Protection Account in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited

[3] ~~Under consideration.~~

thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account," for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section 7.03 of the Trust Indenture as if it were an Issuer Account.

why? needs to be drafted in more!

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Indenture Trustee shall apply the full amount paid by the Province into the ~~Collection~~Protection Account in respect of an Approved Obligation to pay the corresponding amount due and payable to the applicable Beneficiaries under the Approved Obligation.[4] Upon a payment having been made by or on behalf of the Province into the ~~Collection~~Protection Account in respect of an Approved Obligation, the amount so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries and thereby reduce the amount due and payable under the Approved Obligation, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid[53].

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

[4] ~~This will need to operate in tandem with the Trust Indenture waterfall. The idea is that the Approved Obligations may not necessarily follow the sequence of the "payment waterfall" included in the Trust Indenture, and so amounts from the Province would need to operate independently.~~

[53] Consider how Beneficiary rights under Obligations Secured will be amended under an agreement to which a Beneficiary is not directly a party. To achieve a binding relationship, a corresponding provision should appear in the Trust Indenture and each other contract under which the Obligation Secured arises, to the effect that the Beneficiaries will be deemed to be bound by the agreement of the Indenture Trustee under this Agreement. Please see our addition in Section 9.08. The Specified Creditors already make the necessary acknowledgement in Article 5 of the Trust Indenture. Isn't this also addressed in section 1.03 above?

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety. **[NTD: Further consideration required as to whether there should be a waiver of any other equitable defences.]**

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations and termination of the Trust Indenture, or until the Province is no longer required to provide and perform the Limited Guarantee in accordance with Section 6.03].

No

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements ~~and this Agreement~~, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine~~, provided, however, that the Indenture Trustee shall not permit any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor except with the prior written consent of the Province having first been obtained~~.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if ~~(a)~~ the Adherence Conditions applicable thereto have been satisfied~~; or (b) the Province has specifically approved in writing the particular terms, conditions and documentation for the Primary Obligation~~.

4.02 Adherence Conditions

The following shall be the Adherence Conditions applicable in relation to a Primary Obligation:

(a) the Primary Obligation is contemplated under the Trust Indenture as an Obligation Secured; and

(b) ~~at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments[6] under the Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not exceed the Protection Agreement Maximum;~~**[NTD: already covered in process certificate in section 3.01 of the Process Agreement]**

(c) ~~the FSM delivers a notice to the Indenture Trustee, with a copy to the Province, one Business Day prior to the incurrence or any amendment of the Primary Obligation, setting out the Protection Agreement Maximum;~~**[NTD: already covered under Process Agreement.]**

(d) the FSM delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are executive officers of OPG and, for clarity, such certificate is to be provided in OPG's capacity as FSM) and addressed to ~~the Province and~~ the Indenture Trustee, one Business Day prior to the earlier of (i) one Business Day prior to the incurrence or any amendment of the Primary Obligation, and (ii) on the Business Day on which the financial terms of the Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), ~~setting out the following with respect to the Primary Obligation:~~

~~i.~~ ~~confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation (if any), together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not and will not exceed the Protection Agreement Maximum; and~~ii. ~~confirmation that~~ confirming that the FSM has delivered to the Province a ~~certificate~~Process Certificate in accordance with Section **[3.01]** of the Process Agreement ~~confirming, among other things, that the transaction documents in respect of the Primary Obligation are in substantially the form of the documentation reviewed by the Province~~; and

(e) ~~the Province has not provided a Suspension Notice to the Indenture Trustee, the FSM and the Financing Entity in accordance with the terms~~**[NTD: This is more properly dealt with in Section 8.02 of this Agreement.]**.

[6] ~~Use of the concept of "repayments" under the OFHPA for this purpose is under consideration.~~

4.03 Evidence of Satisfaction

A closing certificate ~~signed by at least two executive officers of OPG~~delivered in accordance with Section 4.02 in connection with an incurrence or amendment of a Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same.

ARTICLE V
~~RIGHTS OF THE~~ PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation:

i. ~~(a)~~ to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee; or

ii. ~~(b)~~ **[as a result of assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI,] [NTD: This requires further discussion depending on the terms of the assignment and assumption agreement. If the Obligations Secured are assigned and assumed by the Province under Article VI, how would the Province be subrogated and entitled to the Beneficiary's rights and interests under the Approved Obligation? Consider limiting the application of this section 5.01 to the Limited Guarantee.]**

the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive distributions of such amount by the Financing Entity in accordance with and in the priority applicable to the Approved Obligation applicable in respect of the payment under the Trust Indenture, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. ~~The~~Subject to Section 5.01(b), the Province shall have and be entitled to enforce all rights and interests (including as a ~~secured party~~Specified Creditor under the Trust Indenture) under such Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. ~~The~~Subject to Section 5.01(b), the Indenture Trustee shall recognize the Province as being entitled to all

of the rights, interests and entitlements of the Beneficiary (including, if applicable, as a Noteholder) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) the Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province will be a Specified Creditor hereunder and its entitlements as a Specified Creditor are subject to the provisions applicable to Specified Creditors under the Trust Indenture including, without limitation, **[Section 7.11 (Payments Held in Trust), Section 8.12 (Limitation on Suits), Sections 7.04 and 8.13 (Payment Priorities), Section 8.14 (Limited Recourse) and Section 16.01 (No Petition) thereof]**, (ii) irrevocably authorizes and directs the Indenture Trustee on its behalf to take such action (including the execution and delivery of documents of subordination) as may be necessary or appropriate to further assure the priority arrangements provided for in **[Article VI and Sections 7.04 and 8.13 of the Trust Indenture]**, (iii) appoints the Indenture Trustee as its agent for any and all such purposes, and (iv) confirms that the Indenture Trustee shall send notices to the Province in accordance with Section 9.02.

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary for whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture.

5.03 Voting Rights under "Outstanding Notes"

[Notwithstanding the last three sentences of the definition of "Outstanding" in the Trust Indenture[74]:

(a) **Notes in connection with Approved Obligations in respect of which the Province has rights and interest pursuant to Section 5.01 shall be regarded as "Outstanding" within the meaning of the Trust Indenture; and**

(b) **in determining whether Noteholders of the requisite principal amount of Notes that are Outstanding (as defined in the Trust Indenture) have taken**

[74] This concept needs to be reflected in the Trust Indenture. This requires further discussion (see NTD above).

any Action under the Trust Indenture, and for the purposes of Article X of the Trust Indenture, the Province shall be deemed to have the amount of Outstanding (as defined in the Trust Indenture) Notes in proportion to its interest in such Notes based on the amounts that the Province has paid in respect of Approved Obligations under this Agreement.] [NTD: To be discussed. Giving these voting rights to the Province may affect the marketability of the debt under this program.]

5.04 Province May Perform Other Program Agreement Covenants.

If the Financing Entity fails to perform any covenant under any Program Agreement, the Province may (but, except as expressly provided for under this Agreement, shall not be obligated to) perform such covenant on behalf of the Financing Entity. If the Province performs such a covenant on behalf of the Financing Entity, all sums expended or advanced by the Province in so performing the covenant will bear interest at the rate of interest determined by the Province to reflect market terms and conditions for a borrowing made by the Province at the relevant time from the date of expenditure until repayment by the Financing Entity and will (together with such interest) be paid by the Financing Entity upon demand and will until paid form part of the Obligations Secured subject to Sections **[7.04 and 8.13]** of the Trust Indenture and constitute a Finance Amount.[85] **[NTD: Discussion required as to how these repayments will be dealt with under the MTI, and in particular, under the waterfall provisions.]**

5.05 Representations and Warranties

The Province hereby represents and warrants that:

(a) the Province has the necessary power, authority and capacity to execute and perform its obligations under this Agreement;

(b) the execution, delivery and performance by the Province of this Agreement and the completion of the transactions contemplated hereby do not and will not result in a violation of any applicable law;

(c) all necessary action has been taken by the Province including, without limitation, under sections 5(2) and 5(3) of the Act and section 28(1.1) of the *Financial Administration Act*, R.S.O. 1990 c. F. 12, to authorize the execution and delivery of this Agreement by the Province and the performance by the Province of its obligations hereunder; and

(d) this Agreement has been duly authorized, executed and delivered on behalf of the Province and is a legal, valid and binding obligation of the Province, enforceable against it in accordance with its terms.

[85] General Regulation to be revised such that "Finance Amount" picks up guarantor amounts. Under consideration by MOE.

ARTICLE VI
NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may provide notice (in the form of Exhibit B) to the Indenture Trustee, in accordance with the terms of the Process Agreement, that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.[96]

6.03 Effect of Assumption

On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee, but will instead be primary obligor under the Obligations Secured. **[NTD: Need to move Article VI of the Change of Law Process Agreement into this Article VI and amend accordingly. Also, we will need to attach the form of Assumption Agreement as an Exhibit to this Agreement that will be used for the assignment and assumption of all Obligations Secured. Contrary to the statement in Section 6.02(f) of the Change of Law Protection Agreement, there will not be a separate form of Assumption Agreement for each Obligation Secured.]**

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.

ARTICLE VII
INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity

[96] Further details regarding obtaining of third party consents and rating agency approvals to be considered.

Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

7.02 Not Responsible for Recitals or Issuance of Notes

The recitals contained herein will be taken as the statements of the Province and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

7.03 Representations and Covenants of the Indenture Trustee

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;

(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;

(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and

(d) the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

~~7.04 Release of all Collateral~~

~~(a) The Indenture Trustee shall not execute instruments to release Collateral from the Security Interest of the Trust Indenture, or convey the Indenture Trustee's interest (which is held by the Indenture Trustee for the benefit of the Specified Creditors) in the same, unless and until the rights and interests of the Province under Section 5.01 or otherwise as an assignee of any of the Obligations Secured or as a subrogee have been satisfied in full and the Province has no continuing obligations under this Agreement.~~

~~(b) The Province shall be entitled to receive at least 10 Business Days' written notice when the Indenture Trustee proposes to take any action pursuant to Subsection 7.04(a), accompanied by copies of any instruments involved.~~

~~7.05 Right to Notice and Attend Meetings~~

~~The Financing Entity shall ensure that the Province receives advance notice of any meeting or proposed written resolution of Specified Creditors (or any of them) and the Province and its legal advisers shall be permitted to attend and be represented at any meeting of such Specified Creditors.~~

[Note: Any right to such matters will be the general rights of Specified Creditors as set out in the Trust Indenture.]

ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

8.01 Suspension Notice

A written notice in the form of Exhibit C (a "**Suspension Notice**"):

(a) shall be provided by ~~the FSM or~~ the Province to the Indenture Trustee promptly following the occurrence of a Program Breach; and

(b) may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity following the occurrence of a Breach Event that has not been waived in writing by the Province.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a "**Suspension Event**"), ~~the Financing Entity shall not incur any new or additional Obligation Secured and shall not amend or terminate any existing Obligation Secured except with the prior written consent of the Province.~~this Change of Law Protection Agreement shall not apply in respect of any new Primary Obligation following the date of such Suspension Notice. **[NTD: Deletion of "or additional" is address the situation where a then current Primary Obligation requires an additional Primary Obligation in accordance with its terms of the MTI.]**

8.03 Termination Notice

On the occurrence of a Suspension Event, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**"). Upon the delivery of such Termination Notice, the Province shall assume the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI **[NTD: If the Province terminates the program, it must assume the obligations of the Financing Entity.]**

8.04 No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish

the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with this Agreement.

ARTICLE IX
MISCELLANEOUS

9.01 Term of Agreement

This Agreement will continue until the **[later]** of:

(a) the date that no amount is or may become due and payable by the Province under the Limited Guarantee and the Trust Indenture has been terminated;

(b) **[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt of a Termination Notice from the Province by the Indenture Trustee, the FSM and the Financing Entity, the Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI; and

(c) ~~(b) the date that a Termination Notice is received~~**[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt of an Assumption Notice from the Province by the Indenture Trustee, the ~~FSM and~~Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI.

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

~~[Financing Entity]~~

~~c/o *Ontario Power Generation Inc.*~~

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

with copies to:

~~[Financing Entity Trustee]~~Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for ~~[Financing Entity]~~
~~[Address]~~Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: [■]
Fax: (416) [■]
Email: [■]

[■]

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: [■]

Fax: (416) [■]

Email: [■]

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 ~~Force Majeure~~Intentionally Deleted

~~In no event shall the Indenture Trustee or the Financing Entity Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Indenture Trustee and the Financing Entity Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.~~

9.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement and all such Persons who are Beneficiaries derive their rights exclusively through the Indenture Trustee and such rights are subject to the provisions applicable to Specified Creditors in the Trust Indenture. **[NTD: Consider merging this section 9.08 with section 1.03.]**

9.09 ~~9.08~~ Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM

By: _____
Name:
Title:
By: _____
Name:
Title:

~~[FINANCING ENTITY TRUSTEE], IN~~FAIR HYDRO TRUST, BY ITS ~~CAPACITY AS FINANCING ENTITY TRUSTEE FOR [FINANCING ENTITY]~~MANAGER, ONTARIO POWER GENERATION INC.

By: _____
Name:
Title:

~~[INDENTURE TRUSTEE]~~BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL

CAPACITY

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration"~~[10]~~[7] in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture~~ as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Adherence Conditions**", in respect of a Primary Obligation, means the conditions set out in Section 4.02.

~~["**Administrative Agent**" means OPG, in its capacity as administrative agent of the Financing Entity under the Administrative Services Agreement.]~~

~~["**Administrative Services Agreement**" means the administrative services agreement dated [■], 2017 between the Financing Entity and the Administrative Agent concerning the reimbursement of certain costs incurred by the Administrative Agent in connection with the administration of the Financing Entity.]~~[11]

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.

"**Assumption Notice**" has the meaning ascribed thereto in Section 6.01.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Breach Event**" ~~means the occurrence or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of OPG under the Process Agreement; or (b) any representation or warranty made by OPG, any certification made by OPG under the Process Agreement, or any certification made by OPG in a certificate contemplated by Section 4.03 of this Agreement, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM, the Administrative Agent or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM, the Administrative Agent or the Manager.~~has the meaning ascribed thereto in the Process Agreement.

~~[10]~~[7] Note: A proposal to add this concept into the Regulation is under consideration by MOE. Further modifications to follow, depending on that process.

~~[11] Note: To be confirmed if required.~~

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee. "**Collection Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture.

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "~~I~~investment ~~I~~interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(b).

~~[~~"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity.~~]~~

~~[~~"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.~~]~~[12]

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO~~, and acknowledged and accepted by the Indenture Trustee~~.

"**Note**" or "**Notes**" has the meaning ascribed thereto under the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Noteholder**" has the meaning ascribed thereto under the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

~~[12]Note: To be confirmed if required. Also note that the draft Trust Indenture refers to OPG as the "manager" (rather than "Financial Services Manager" as under the Act). To be reconciled.~~

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured that is a Funding Obligation~~, other than (a) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event; and (b) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account, or Supplemental Reserve Account~~ or otherwise constitutes a Finance Amount.

"**Process Agreement**" means the Change of Law Process Agreement dated [■], 2017 between the Province and ~~OPG~~the FSM.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01 of the Process Agreement.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture~~ as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Program Breach**" means **[an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture] or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.] [NTD: To be discussed.]**

"**Protection ~~Agreement Maximum" means the dollar amount determined by the Province and of which OPG is provided notice in accordance with the Process Agreement.~~Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province, **[NTD: Further discussion required as to whether the Province controls the OEB for purposes of a Protection Event.]**

in each case, that ~~materially and~~ adversely affects (a) the ability of the Financing Entity to receive amounts ~~on~~in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable; or

(b) a court of competent jurisdiction (i) determines that all or a portion of the Act or the regulations made under the Act, as in effect ~~on~~ the date hereof, is *ultra vires* or invalid in a way that ~~materially and~~ adversely affects the ability of the Financing Entity~~'s receipt of~~ to receive amounts in respect of its Investment Interest ~~and~~so that it can pay Obligations Secured, or (ii) issues a decision or an order preventing the Financing Entity from receiving amounts on its Investment Interest, in each case that results in the Financing Entity not having sufficient funds to pay Obligations Secured that have become due and payable.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture.

"**Repayment**" has the meaning ascribed thereto in the General Regulation.

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

~~"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.~~

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture ~~as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee~~.

"**Suspension Event**" has the meaning ascribed thereto in Section 8.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 8.01.

"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

EXHIBIT B
ASSUMPTION NOTICE

EXHIBIT C
SUSPENSION NOTICE

EXHIBIT D
TERMINATION NOTICE

EXHIBIT E

FORM OF ASSUMPTION AGREEMENT

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

FAIR HYDRO TRUST[1], BY ITS MANAGER, ONTARIO POWER GENERATION INC.

NO

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

YES

[1] "Trustee" is the "legal entity". Trustee itself should sign all primary documents to make "manager" delegation meaningful and to avoid invalidating the Trust as a "trust".

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), Ontario Power Generation Inc., as the Manager and in its capacity as Manager of Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario (the "**Financing Entity**"), Ontario Power Generation Inc. in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee and in its capacity as trustee for the Beneficiaries in accordance with the Trust Indenture, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust[2] dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The FSM, as agent of the Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended. This Agreement sets out the terms and conditions of such protections and assurances.

[2] See OFHPA, definition of "financing entity". FSM to establish or cause to be established. Needed for authority under OFHPA 5(3), among other things.

The FSM[3] and the Province will concurrently enter into the Process Agreement, under which the FSM will agree to perform certain related activities and to provide certain assurances on which the Province will rely, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation and ensuring that the Province's assumption right may be exercised without impediment on the terms and conditions contemplated in this Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the FSM[4] and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor, [except in each case as referenced in the definition of Protection Event];[5]

[3] Need to confirm parties to the Process Agreement. OPG, acting as FSM, implies potential limitation on OPG's liability.

agree → [4] Deletion of the Trust as a party is unacceptable since would impact Province's rights against Trust's assets (e.g., as a subrogee).

[5] Covered in preamble, so delete.

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

why was this deleted

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.[6]

1.03 ~~1.02~~ Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province

agree ✓

[6] Enforcement of the Limited Guarantee under this Agreement must be limited to enforcement by the Indenture Trustee on behalf of the Beneficiaries. The Trust Indenture should deal with the manner and limitations on the Indenture Trustee's actions with respect to enforcement.

with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 ~~1.03~~ Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised through the Indenture Trustee under, in accordance with and subject to the limitations set forth in the Trust Indenture. No Specified Creditor will have any right to institute any proceeding, judicial or otherwise, with respect to this Agreement.[7]

1.05 ~~1.04~~ Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province upon performance by the Province of the Primary Obligation. [To the extent of any conflict between this Agreement and the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 in respect of any matter relating to the Province's obligations to indemnify the FSM ~~or the Financing Entity,~~ the latter shall prevail.][8]

1.06 ~~1.05~~ Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 ~~1.06~~ Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.08 ~~1.07~~ Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable

[7] There is no intention to provide a separate cause of action for individual Beneficiaries.

[8] Explanation required. Indemnity is a separate cause of action and should not limit the Province's primary entitlements under this Agreement, opposite the Trust and the Indenture Trustee. If an override in favour of OPG is contemplated, that should be clearly set out and understood. This provision confuses concepts. In any event, the Trust is not a party to or a protected person under the indemnity.

with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.09 ~~1.08~~ Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 ~~1.09~~ Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.11 ~~1.10~~ Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 ~~1.11~~ Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 ~~1.12~~ Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 ~~1.13~~ Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 ~~1.14~~ Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 ~~1.15~~ Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 ~~1.16~~ Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 ~~1.17~~ References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to the Financing Entity, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (~~other than relating to the constitution or existence~~ of the Financing Entity) by or with respect to, the FSM as agent for the Financing Entity Trustee (in its capacity as trustee of the Financing Entity). **[NTD: Discuss whether the Financing Entity Trustee should be a party to this Agreement and references to the Financing Entity Trustee re-inserted into this section and others.]**[9]

[9] ~~Otherwise validity of Trust obligations becomes questionable and opinion qualifications would become likely.~~ Revert to Blakes language.

1.19 ~~1.18~~ Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may provide a written demand, in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to pay the amount of the Approved Obligations ~~owing~~[that would have been payable from Available Collections had the Protection Event not occurred][10][owing][11] from time to time by the Financing Entity to the Indenture Trustee as and

[10] The amount "owing" under an obligation (i.e., balloon) will different from the amount available to be paid in respect of such owed amount (based on Available Collections). The Province is not obligated to pay more than the obligations that would have been paid from CEAs had they been collected. This language is an alternative to the simple drafting approach contemplated in the term sheet ("without acceleration"), and is more complex. It would also make the new "additional amount" (i.e., extra amounts up to the FAA) part of the Province's obligations, which has not been contemplated by the OFA to date and will need to be considered separately.

[11] This would mean that the entire amount of the Notes would become payable, as a balloon. That is not the deal.

when they become due and payable[1][, without Acceleration][12]. A Payment Demand will not be valid with respect to an Approved Obligation until the amount claimed becomes due and payable in respect of the Approved Obligation[, without Acceleration,][13] in accordance with the Trust Indenture and has not otherwise been paid by the Financing Entity.

(b) Following receipt of a valid Payment Demand under Subsection 2.01(a), the Province shall pay the amounts ~~owing~~[that would have been payable from Available Collections had the Protection Event not occurred] [owing] by the Financing Entity to the Indenture Trustee, on behalf of the applicable Beneficiaries, in respect of each Approved Obligation[2][14], in each case as and when the Approved Obligation becomes due and payable in accordance with its terms and on its scheduled, specified or determined payment date, as determined without regard to any Acceleration or rights of Acceleration arising under the Approved Obligation, in each case by the Province depositing or causing the deposit of the applicable payment amount into the [Protection Account][15] [5 Business Days prior to the fifteen day of each calendar month][16] (the "**Limited Guarantee**"). For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation, including (i) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event, and (ii) amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account or a Supplemental Reserve Account.

(c) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(d) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation.

[1] ~~Consider~~[12] This is a simpler and preferred formulation for the relevant concept. Also, consider mechanics for notifying the Province regarding the specific amounts payable and their due dates. Consider attaching a detailed schedule of payments under the Payment Demand and the respective due date of each payment.

[13] If alternative approach is preferred (as described above), this will also need to be modified.

[2][14] Under Subsection 5(3) of the Act, the Province can guarantee only obligations "associated with an investment interest". The guarantee in Section 2.01 of the draft agreement guarantees "Approved Obligations", which in turn relies on the definition of Primary Obligations. The connection between a Primary Obligations and an "investment interest" is therefore crucial. Blakes is considering how to more precisely connect these concepts.

[15] Addition of Protection Account step will require further consideration. Province needs to see how the Trust Indenture will be modified to address this mechanically (i.e., part of the Collateral; mechanics of how funds move to Collection Account; equitable claims; etc. Province will need to know that all amounts will be applied for their intended purposes without undermining Province's step-in and subrogation rights).

[16] Delete. Province will pay on the date amounts would have otherwise been paid; not in advance.

(e) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.

agree ✓

2.02 ~~Gross-up~~Intentionally Deleted.

~~All amounts payable by the Province under this Agreement shall be made free and clear of and without deduction for or on account of any present or future taxes, charges, fees, levies, duties or withholdings of any kind. If the Province is obliged to deduct or withhold an amount in respect of any such taxes, charges, fees, levies, duties or withholdings, then in such event the Province shall deposit into the Protection Account such additional amount as is necessary to ensure that the Indenture Trustee receives (on an after-tax basis, after payment of any and all income taxes on such additional amounts) an amount equal to the full amount otherwise due and payable in respect of the related Approved Obligation, net of any such taxes, charges, fees, levies, duties or withholdings.~~

why delete

2.03 Absence of Set-off

s.43 FAA exists

subject to applicable law?

The Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee. - unsure this right? don't do it for banks

2.04 Payment into Protection Account[17] in Satisfaction

why?

(a) [On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account." for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section 7.03 of the Trust Indenture as if it were an Issuer Account.]

[17] Use of Protection Account to be considered by Province after required modifications to Trust Indenture have been provided.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Indenture Trustee shall apply the full amount paid by the Province into the Protection Account in respect of an Approved Obligation to pay the corresponding amount due and payable to the applicable Beneficiaries under the Approved Obligation. Upon a payment having been made by or on behalf of the Province into the Protection Account in respect of an Approved Obligation, the amount so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries and thereby reduce the amount due and payable ~~under~~to such Beneficiaries in respect of the Approved Obligation, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid[318]. For greater certainty, the obligations arising in respect of the Approved Obligation shall not be reduced by such payment as the Province shall become entitled to the rights contemplated under Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety. ~~[NTD: Further consideration required as to whether there should be a waiver of any other equitable defences.]~~

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

[318] Consider how Beneficiary rights under Obligations Secured will be amended under an agreement to which a Beneficiary is not directly a party. To achieve a binding relationship, a corresponding provision should appear in the Trust Indenture and each other contract under which the Obligation Secured arises, to the effect that the Beneficiaries will be deemed to be bound by the agreement of the Indenture Trustee under this Agreement. Please see our addition in Section 9.08. The Specified Creditors already make the necessary acknowledgement in Article 5 of the Trust Indenture. Isn't this also addressed in section 1.03 above?

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations ~~and termination of the Trust Indenture~~, or until the Province is no longer required to provide and perform the Limited Guarantee in accordance with Section 6.03.

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine~~.~~,

provided, however, that the Indenture Trustee shall not permit any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement,

suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor expect with the prior written consent of the Province having first been obtained.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if the Adherence Conditions applicable thereto have been satisfied.

4.02 Adherence Conditions

The following shall be the Adherence Conditions applicable in relation to a Primary Obligation:

(a) the Primary Obligation is contemplated under the Trust Indenture as an Obligation Secured; and

(b) ~~[NTD: already covered in process certificate in section 3.01 of the Process Agreement]~~at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments[19] under the Primary Obligation, together with all other outstanding amounts due or becoming due in the

beneficiary should also rec'd

[19] Use of the concept of "repayments" under the OFHPA for this purpose is under consideration.

future in respect of Repayments under Approved Obligations, do not exceed the Protection Agreement Maximum;[20]

(c) ~~[NTD: already covered under Process Agreement.]~~the FSM delivers a notice to the Indenture Trustee, with a copy to the Province, one Business Day prior to the incurrence or any amendment of the Primary Obligation, setting out the Protection Agreement Maximum;

(d) the FSM delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are executive officers of OPG [and, for clarity, such certificate is to be provided in OPG's capacity as FSM][21]) and addressed to the Indenture Trustee and the Province[22], one Business Day prior to the earlier of (i) one Business Day prior to the incurrence or any amendment of the Primary Obligation, and (ii) on the Business Day on which the financial terms of the Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), ~~confirming that the FSM has delivered to the Province a Process Certificate in accordance with Section [3.01] of the Process Agreement; and~~setting out the following with respect to the Primary Obligation:

i. confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation (if any), together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not and will not exceed the Protection Agreement Maximum[23]; and

ii. confirmation that [the FSM has delivered to the Province a certificate in accordance with the Process Agreement confirming, among other things, that the transaction documents in respect of the Primary Obligation are in substantially the form of the documentation reviewed by the Province][the FSM has delivered

[20] Province needs this to be part of the adherence process opposite the indenture trustee. Since the PAM will be objectively determined and within the knowledge of the indenture trustee (as contemplated in para (c)), this should not raise practical constraints. This is analogous to current procedures undertaken in connection with the incurrence of provincial obligations, where the conditions to issuance involve specific affirmation that the issuance is within the prescribed borrowing limit.

[21] OPG's capacity in certifying is under consideration, having regard to the inherent limitations associated with actions undertaken as FSM.

[22] Certificate is intended as Province's closing due diligence and so needs to be addressed and delivered to Province. Otherwise Province will need to become directly involved in the closing process. Province is prepared to rely on OPG for this purpose to accommodate OPG's logistical concerns, but that does not mean that Province can be removed from the closing process altogether, without the benefit of these required affirmations.

[23] Province wants OPG to specifically confirm this at the time of closing, to support the Province's reliance on OPG for this critical purpose.

to the Province a Process Certificate in accordance with Section [3.01] of the Process Agreement][24]; and

(e) the Province has not provided a Suspension Notice to the Indenture Trustee[25], the FSM and the Financing Entity in accordance with the terms of this Agreement.

(f)

(g) , confirming that the FSM has delivered to the Province a Process Certificate in accordance with Section [3.01] of the Process Agreement; and

(h) ~~(e)~~ **[NTD: This is more properly dealt with in Section 8.02 of this Agreement.]**.

4.03 Evidence of Satisfaction

A closing certificate delivered in accordance with Section 4.02 in connection with an incurrence or amendment of a Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same.

ARTICLE V
PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation:

i. to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee; or

ii. ~~[~~as a result of assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI,~~]~~ **[NTD: This requires further discussion depending on the terms of the assignment and assumption agreement. If the Obligations Secured are assigned and assumed by the Province under Article VI, how would the Province be subrogated and entitled to the Beneficiary's rights and interests under the Approved**

[24] The intention was not to incorporate specific terms of the Process Agreement into the Protection Agreement, to avoid the need for investors, relying on the Protection Agreement, to be concerned about its contents. If there is a preference to hard-code the Process Agreement in the Protection Agreement, the Province will not object but further drafting considerations will arise.

[25] Province wants this mechanic embedded in the adherence conditions so it is explicitly understood and mechanically contemplated as the way the Province can cut-off future Limited Guarantees opposite the indenture trustee.

Obligation? Consider limiting the application of this section 5.01 to the Limited Guarantee.] [26]

the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive distributions of such amount by the Financing Entity in accordance with and in the priority applicable to the Approved Obligation applicable in respect of the payment under the Trust Indenture, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. ~~Subject to Section 5.01(b), the~~The Province shall have and be entitled to enforce all rights and interests (including as a Specified Creditor under the Trust Indenture~~)~~ on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. ~~Subject to Section 5.01(b), the~~The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including~~, if applicable, as a Noteholder~~ as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) ~~the~~The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province ~~will be a Specified Creditor hereunder and its entitlements~~, in its capacity as a Specified Creditor ~~are~~, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including~~, without limitation,~~ **[Section 7.11 (Payments Held in Trust), Section 8.12 (Limitation on Suits), Sections 7.04 and 8.13 (Payment Priorities), Section 8.14 (Limited Recourse) and Section 16.01 (No Petition) thereof]**~~, (ii) irrevocably authorizes and directs the Indenture Trustee on its behalf to take such action (including the execution and delivery of documents of subordination) as may be necessary or appropriate to further assure the~~

[26] The idea is that if the Province steps in and becomes the obligor, it will get all of the underlying interests in the Trust's property (i.e., "interests … in respect of the Approved Obligation" = collateral). If this seems confusing, a parallel provision can be added to Art VI to address the step-in scenario specifically. Discussion of any concerns will be useful.

~~priority arrangements provided for in [Article VI and Sections 7.04 and 8.13 of the Trust Indenture]~~, ~~(iii) appoints the Indenture Trustee as its agent for any and all such purposes, and (iv~~ and (ii) confirms that the Indenture Trustee shall send notices to the Province, in its capacity as a Specified Creditor, in accordance with Section 9.02.

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary for whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture.

post-trigger → have paid coupons ?

5.03 Voting Rights under "Outstanding Notes"

5 % of votes

[Notwithstanding the last three sentences of the definition of "Outstanding" in the Trust Indenture[427]:

(a) **Notes in connection with Approved Obligations in respect of which the Province has rights and interest pursuant to Section 5.01 shall be regarded as "Outstanding" within the meaning of the Trust Indenture; and**

any affiliate of issuer will lose voting rights

(b) **in determining whether Noteholders of the requisite principal amount of Notes that are Outstanding (as defined in the Trust Indenture) have taken any Action under the Trust Indenture, and for the purposes of Article X of the Trust Indenture, the Province shall be deemed to have the amount of Outstanding (as defined in the Trust Indenture) Notes in proportion to its interest in such Notes based on the amounts that the Province has paid in respect of Approved Obligations under this Agreement.] [NTD: To be discussed. ~~Giving~~Explanation required regarding why not restricting these voting rights to the Province may affect the marketability of the debt under this program.]**

5.04 Province May Perform Other Program Agreement Covenants.

If the Financing Entity fails to perform any covenant under any Program Agreement, the Province may (but, except as expressly provided for under this Agreement, shall not be obligated to) perform such covenant on behalf of the Financing Entity. If the Province performs such a covenant on behalf of the Financing Entity, all sums expended or advanced by the Province in so performing the covenant will bear interest at the rate of interest determined by the Province to reflect market terms and conditions for a borrowing made by the Province at the relevant time from the date of expenditure until repayment by the Financing Entity and will (together with such interest) be paid by the Financing Entity upon demand and will until paid form part of the

[427] This concept needs to be reflected in the Trust Indenture. This requires further discussion (see NTD above).

Obligations Secured subject to Sections **[7.04 and 8.13]** of the Trust Indenture and constitute a Finance Amount.[528] **[NTD: Discussion required as to how these repayments will be dealt with under the MTI, and in particular, under the waterfall provisions.]**

5.05 Representations and Warranties

The Province hereby represents and warrants[29] that:

(a) the Province has the necessary power, authority and capacity to execute and perform its obligations under this Agreement;

(b) the execution, delivery and performance by the Province of this Agreement and the completion of the transactions contemplated hereby do not and will not result in a violation of any applicable law;

(c) all necessary action has been taken by the Province including, ~~without limitation,~~ under sections 5(2) and 5(3) of the Act and section 28(1.1) of the *Financial Administration Act*, R.S.O. 1990 c. F. 12, to authorize the execution and delivery of this Agreement by the Province and the performance by the Province of its obligations hereunder; and

(d) this Agreement has been duly authorized, executed and delivered on behalf of the Province and is a legal, valid and binding obligation of the Province, enforceable against it in accordance with its terms.

ARTICLE VI
NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may provide notice (in the form of Exhibit B) to the Indenture Trustee, in accordance with the terms of the Process Agreement, that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.[630]

[528] General Regulation to be revised such that "Finance Amount" picks up guarantor amounts. Under consideration by MOE.

[29] Province input required.

[630] Further details regarding obtaining of third party consents and rating agency approvals to be considered.

6.03 Effect of Assumption

On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee but will instead ~~be~~become a primary obligor under the Obligations Secured assumed pursuant to and in accordance with an applicable Assumption Agreement. **[NTD: Need to move Article VI of the Change of Law Process Agreement into this Article VI and amend accordingly.[31] Also, we will need to attach the form of Assumption Agreement as an Exhibit to this Agreement that will be used for the assignment and assumption of all Obligations Secured. Contrary to the statement in Section 6.02(f) of the Change of Law Protection Agreement, there will not be a separate form of Assumption Agreement for each Obligation Secured.[32]]**

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.

ARTICLE VII
INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

7.02 Not Responsible for Recitals or Issuance of Notes

The recitals contained herein will be taken as the statements of the Province and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

[31] The idea was to not burden the external agreement with the necessary steps for the Province to be in a position to step-in. If the preference is to include more in this external agreement, the Province will not object subject to further consideration of drafting issues.

[32] It has been assumed that there may be variations depending on the nature of the underlying obligations. A root form of Assumption Agreement, modified to conform substantially to that form in connection with a particular obligation, was the idea. To be further discussed.

7.03 Representations and Covenants of the Indenture Trustee

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;

(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;

(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and

(d) the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

7.04 Release of all Collateral[33]

(a) The Indenture Trustee shall not execute instruments to release Collateral from the Security Interest of the Trust Indenture, or convey the Indenture Trustee's interest (which is held by the Indenture Trustee for the benefit of the Specified Creditors) in the same, unless and until the rights and interests of the Province under Section 5.01 or otherwise as an assignee of any of the Obligations Secured or as a subrogee have been satisfied in full and the Province has no continuing obligations under this Agreement.

(b) The Province shall be entitled to receive at least 10 Business Days' written notice when the Indenture Trustee proposes to take any action pursuant to Subsection 7.04(a), accompanied by copies of any instruments involved.

7.05 Right to Notice and Attend Meetings[34]

The Financing Entity shall ensure that the Province receives advance notice of any meeting or proposed written resolution of Specified Creditors (or any of them) and the Province and its legal advisers shall be permitted to attend and be represented at any meeting of such Specified Creditors.

[33] Before the Province is called to perform its obligations under this Agreement (only then becoming a Specified Creditor based on the current drafting), the Province needs to know that the Collateral available to it as a subrogee/assignee will be protected. Province may have different interests than Specified Creditors, who may make concessions based on the protections under this Agreement being available to them in lieu of the Collateral.

[34] Again, before the Province is called to perform its obligations under this Agreement (only then becoming a Specified Creditor based on the current drafting), the Province needs information that could affect its future rights as a subrogee/assignee. This is not a voting right; rather just a right to know what is going on. Why a problem?

[Note: Any right to such matters will be the general rights of Specified Creditors[35] as set out in the Trust Indenture.]

ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

8.01 Suspension Notice

A written notice in the form of Exhibit C (a "**Suspension Notice**"):

(a) shall be provided by the FSM to the Province and the Indenture Trustee promptly following the occurrence of a Program Breach;

(b) may be provided by the Province to the Indenture Trustee ~~promptly following~~upon the Province becoming aware of the occurrence of a Program Breach; and

(c) ~~(b)~~ may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity following the occurrence of a Breach Event that has not been waived in writing by the Province.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a "**Suspension Event**"), ~~this Change of Law Protection Agreement~~the Limited Guarantee shall not apply in respect of any ~~new Primary~~ Obligation ~~following~~Secured incurred on or after the ~~date of such Suspension Notice. **[NTD: Deletion of "or additional" is address the situation where a then current Primary Obligation requires an additional Primary Obligation in accordance with its terms of the MTI.]**~~time such Suspension Notice is delivered. For greater certainty, the rights of the Province under Article VI shall apply in respect of all Obligations Secured, including if incurred on or after the time such Suspension Notice is delivered.

8.03 Termination Notice

On the earlier to occur of (a) the occurrence of a Suspension Event or (b) the Assumption Effective Date, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**"). ~~Upon the delivery of such Termination Notice, the Province shall assume the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI **[NTD: If the Province terminates the program, it must assume the obligations of the Financing Entity.]**~~[36]

[35] As explained above, Province needs rights prior to a Protection Event.

[36] The suspension right in favour of the Province is intended to allow the Province to cut-off future obligations under this Agreement, but not affect rights that have arisen prior to the suspension notice. The termination notice is a further step that allows the Province to bring this agreement to an end, but that only happens (under section 9.01) after all amounts capable of becoming due under the Limited Guarantee have been paid (i.e., the last obligation incurred prior to the suspension notice has been satisfied), including as a result of an assumption under Art VI.

8.04 No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with ~~this Agreement~~Article VI.

ARTICLE IX
MISCELLANEOUS

9.01 Term of Agreement

This Agreement will continue until the ~~[~~later~~]~~ of:

(a) the date that no amount is or may become due and payable by the Province under the Limited Guarantee; and ~~the Trust Indenture has been terminated;~~

(b) ~~**[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt of~~the date that a Termination Notice ~~from the Province~~delivered in accordance with Section 8.03 is received by the Indenture Trustee, the FSM and the Financing Entity~~, the Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI; and~~.

~~(c) **[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt of an Assumption Notice from the Province by the Indenture Trustee, the Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI.~~

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other

communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: [■]
Fax: (416) [■]
Email: [■]

[■]

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: [■]

Fax: (416) [■]

Email: [■]

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

sharing of info with auditors

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 Intentionally Deleted

9.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement~~and all such Persons who are Beneficiaries derive their rights~~. Beneficiaries are not parties to this Agreement and accordingly any benefits derived hereunder shall arise exclusively through the Indenture Trustee and ~~such rights are~~shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture. **[NTD: Consider merging this section 9.08 with section 1.03.]**

9.09 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM

By: _____
Name:
Title:

By: _____
Name:
Title:

FAIR HYDRO TRUST, BY ITS MANAGER, ONTARIO POWER GENERATION INC.

By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration"~~[7]~~[37] in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Adherence Conditions**", in respect of a Primary Obligation, means the conditions set out in Section 4.02.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.

"**Assumption Notice**" has the meaning ascribed thereto in Section 6.01.

?

"**Available Collections**" has the meaning ascribed thereto in the Trust Indenture.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Breach Event**" [means the occurrence or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of [OPG] under the Process Agreement; or (b) any representation or warranty made by [OPG], any certification made by [OPG] under the Process Agreement, or any certification made by [OPG] in a certificate contemplated by Section 4.03 of this Agreement, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM, the Administrative Agent or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM, the Administrative Agent or the Manager.][has the meaning ascribed thereto in the Process Agreement.][38]

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

~~[7]~~[37] Note: A proposal to add this concept into the Regulation is under consideration by MOE. Further modifications to follow, depending on that process.

[38] Consider longer version to avoid hard-coding Process Agreement into this Agreement.

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

["**Collection Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.][39]

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

["**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.]

["**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.]

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

[39] Confirm, vs use of a Protection Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(b).

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity.

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as may be amended prior to the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee. ?

why from Prov ?

"**Note**" or "**Notes**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Noteholder**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured ~~that is a Funding Obligation or otherwise constitutes a Finance Amount.~~(a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event; (ii) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account, or Supplemental Reserve Account; (iii) any amounts that would be remaining amounts of Available Collections required by the to be held in the Collection Account for distribution on a succeeding Payment Date pursuant to the Trust Indenture; (iv) any amount payable under a Derivative Agreement in respect of a "termination payment" where the Financing Entity's counterparty under the Derivative Agreement is a "defaulting party" or the sole "affected party" (as such terms are given meaning under the Derivative Agreement); and (v) any obligation to pay the Trust or on the Trust's direction any remaining amounts of Available Collections.

"**Process Agreement**" means the Change of Law Process Agreement dated [■], 2017 between the Province and [the FSM].

[**"Process Certificate**" has the meaning ascribed thereto in Section 3.01 of the Process Agreement.]

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Program Breach**" means ~~[~~an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture~~]~~ or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.~~]~~ **[NTD: To be discussed.]**

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Agreement Maximum**" means the dollar amount determined by the Province and of which OPG is provided notice in accordance with the Process Agreement.

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province, **[NTD: Further discussion required as to whether the Province controls the OEB for purposes of a Protection Event.]**

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable; or

(b) a court of competent jurisdiction (i) determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, ~~or~~and (ii) issues a decision or an order preventing the Financing Entity from receiving amounts on its Investment Interest, in each case that results in the Financing Entity not having sufficient funds to pay Obligations Secured that have become due and payable.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Repayment**" has the meaning ascribed thereto in the General Regulation.

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Suspension Event**" has the meaning ascribed thereto in Section 8.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 8.01.

"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

EXHIBIT B
ASSUMPTION NOTICE

EXHIBIT C
SUSPENSION NOTICE

EXHIBIT D
TERMINATION NOTICE

EXHIBIT E

FORM OF ASSUMPTION AGREEMENT

Document comparison by Workshare Compare on Friday, November 10, 2017 12:40:44 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239360/10
Description	TOR_2528-#23239360-v10-CLPA_-_Protection_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239360/11
Description	TOR_2528-#23239360-v11-CLPA_-_Protection_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	197
Deletions	98
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	297

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST~~, BY ITS MANAGER, ONTARIO POWER GENERATION INC.~~

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

- Party should be trustee of trust
- OPG can sign on their behalf as mgr but trustee is the party

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), ~~Ontario Power Generation Inc., as the Manager and~~Computershare Trust Company of Canada, in its capacity as ~~Manager~~trustee (the "**Financing Entity Trustee**") of Fair Hydro Trust, a trust ~~settled by the FSM~~ under the laws of the Province of Ontario (the "**Financing Entity**")[1], Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity[2]~~), Ontario Power Generation Inc.~~ and in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee~~ and in its capacity as trustee for the Beneficiaries in accordance with the Trust Indenture~~, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust[2] dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The ~~FSM, as agent of the~~ Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the

[1] Province needs the Trust as a party to be assured of its rights of subrogation, step-in, etc.

[2] Torys to confirm that Trust is a "financing entity" under OFHPA. Under definition, FSM to establish or cause to be established. DofT indicates Computershare declares trust. Need to have this confirmed for purposes of authority under OFHPA 5(3), among other things.

time the Approved Obligation is incurred or amended. This Agreement sets out the terms and conditions of such protections and assurances.

The FSM and the Province will concurrently enter into the Process Agreement, under which the FSM will agree to perform certain related activities and to provide certain assurances on which the Province will rely, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation and ensuring that the Province's assumption right may be exercised without impediment on the terms and conditions contemplated in this Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor~~, except in each case as referenced in the definition of Protection Event~~;

drafting

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

OK to leave in

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 ~~1.02~~ Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 ~~1.03~~ Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected

other than thru the Trust Indenture?

and exercised through the Indenture Trustee under, in accordance with and subject to the limitations set forth in the Trust Indenture. No Specified Creditor will have any right to institute any proceeding, judicial or otherwise, with respect to this Agreement.

→ Blakes to revise to make clear

1.05 ~~1.04~~ Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province ~~upon~~to the extent of the performance by the Province of the Primary Obligation. ~~To the extent of any conflict between this Agreement and the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 in respect of any matter relating to the Province's obligations to indemnify the FSM or the Financing Entity, the latter shall prevail.~~

OK to delete

1.06 ~~1.05~~ Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 ~~1.06~~ Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee, the Financing Entity, the Financing Entity Trustee or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

OK

1.08 ~~1.07~~ Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.09 ~~1.08~~ Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 ~~1.09~~ Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.11 ~~1.10~~ Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 ~~1.11~~ Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 ~~1.12~~ Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 ~~1.13~~ Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 ~~1.14~~ Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 ~~1.15~~ Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 ~~1.16~~ Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 ~~1.17~~ References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, ~~the FSM as agent for~~ the Financing Entity Trustee ~~(in its capacity~~ as trustee of the Financing Entity~~)~~. ~~[NTD: Discuss whether the Financing Entity Trustee should be a party to this Agreement and references to the Financing Entity Trustee re-inserted into this section and others.]~~.

OK

OK

1.19 ~~1.18~~ Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall,

notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may provide a written demand, in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to pay the amount of the Approved Obligations ~~owing~~that would have been payable from Available Collections had the Protection Event not occurred[3] from time to time by the Financing Entity to the Indenture Trustee as and when they become due and payable[4], without Acceleration. A Payment Demand will not be valid with respect to an Approved Obligation until the amount claimed becomes due and payable in respect of the Approved Obligation, without Acceleration, in accordance with the Trust Indenture and has not otherwise been paid by the Financing Entity.

(b) Following receipt of a valid Payment Demand under Subsection 2.01(a), the Province shall pay the amounts ~~owing~~that would have been payable from Available Collections had the Protection Event not occurred by the Financing Entity to the Indenture Trustee, on behalf of the applicable Beneficiaries, in respect of each Approved Obligation[2], in each case as

to be revised agreed to concept that Province will pay slighter wgher amt permitted by reg if flow accelerated prior to event - agree that des

[3] The amount "owing" under an obligation (i.e., balloon) will different from the amount available to be paid in respect of such owed amount (based on Available Collections). The Province is not obligated to pay more than the obligations that would have been paid from CEAs had they been collected.

[4] ~~Consider mechanics for notifying the Province regarding the specific amounts payable and their due dates. Consider attaching a detailed schedule of payments under the Payment Demand and the respective due date of each payment.~~

[2] ~~Under Subsection 5(3) of the Act, the Province can guarantee only obligations "associated with an investment interest". The guarantee in Section 2.01 of the draft agreement guarantees "Approved Obligations", which in turn relies on the definition of Primary Obligations. The connection between a Primary Obligations and an "investment interest" is therefore crucial. Blakes is considering how to more precisely connect these concepts.~~

and when the Approved Obligation becomes due and payable in accordance with its terms and on its scheduled, specified or determined payment date, as determined without regard to any Acceleration or rights of Acceleration arising under the Approved Obligation, in each case by the Province depositing or causing the deposit of the applicable payment amount into the Protection Account ~~5 Business Days prior to the fifteen day of each calendar month~~[4] on or before the day on which the applicable Approved Obligation becomes due and payable in accordance with its terms (the "**Limited Guarantee**"). For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation.

(c) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(d) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation.

(e) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits. other than payment under the gtee ? Blakes to suggest something [other]

2.02 ~~Gross-up~~Intentionally Deleted.

~~All amounts payable by the Province under this Agreement shall be made free and clear of and without deduction for or on account of any present or future taxes, charges, fees, levies, duties or withholdings of any kind. If the Province is obliged to deduct or withhold an amount in respect of any such taxes, charges, fees, levies, duties or withholdings, then in such event the Province shall deposit into the Protection Account such additional amount as is necessary to ensure that the Indenture Trustee receives (on an after-tax basis, after payment of any and all income taxes on such additional amounts) an amount equal to the full amount otherwise due and payable in respect of the related Approved Obligation, net of any such taxes, charges, fees, levies, duties or withholdings.~~ OK

2.03 Absence of Set-off

OK

~~The~~Subject to applicable law, the Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as

[4] Province needs to see how the Trust Indenture will be modified to address addition of Protection Account (i.e., payment mechanics; Protection Account to be part of the Collateral; mechanics of how funds move to Collection Account; absence of equitable claims; etc.). Province will need to know that all amounts will be applied for their intended purposes without undermining Province's step-in and subrogation rights.

required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Protection Account[5] in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account." for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section 7.03 of the Trust Indenture ~~as if~~on the basis that it ~~were~~is an Issuer Account.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Indenture Trustee shall apply the full amount paid by the Province into the Protection Account in respect of an Approved Obligation to pay the corresponding amount due and payable to the applicable Beneficiaries under the Approved Obligation. Upon a payment having been made by or on behalf of the Province into the Protection Account in respect of an Approved Obligation, the amount so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries and thereby reduce the amount due and payable ~~under~~to such Beneficiaries in respect of the Approved Obligation, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid[3~~6~~]. For greater certainty, the obligations arising in respect of the Approved Obligation shall not be reduced by such payment as the Province shall become

[5] Use of Protection Account to be considered by Province after required modifications to Trust Indenture have been provided.

[3] ~~Consider how Beneficiary rights under Obligations Secured will be amended under an agreement to which a Beneficiary is not directly a party. To achieve a binding relationship, a~~[6] A corresponding provision ~~should appear in~~needs to be added to the Trust Indenture and each other contract under which the Obligation Secured arises, ~~to the effect~~so that the Beneficiaries ~~will be deemed to be~~are bound by these applications and the agreement of the Indenture Trustee under this Agreement. ~~Please see our addition in Section 9.08. The Specified Creditors already make the necessary acknowledgement in Article 5 of the Trust Indenture. Isn't this also addressed in section 1.03 above?~~

entitled to the rights contemplated under Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety. ~~[NTD: Further consideration required as to whether there should be a waiver of any other equitable defences.]~~

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations ~~and termination of the Trust Indenture~~, or until the Province is no longer required to provide and perform the Limited Guarantee in accordance with Section 6.03.

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine~~.~~,

OK to delete + rely on Process agt

provided, however, that the Indenture Trustee shall not permit any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor expect with the prior written consent of the Province having first been obtained.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if the Adherence Conditions applicable thereto have been satisfied.

4.02 Adherence Conditions

The following shall be the Adherence Conditions applicable in relation to a Primary Obligation:

(a) the Primary Obligation is contemplated under the Trust Indenture as an Obligation Secured; and

~~(b) [NTD: already covered in process certificate in section 3.01 of the Process Agreement]~~

~~(c) [NTD: already covered under Process Agreement.]~~

(b) ~~(d)~~ the FSM delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are executive officers of OPG and, for clarity, such certificate is to be provided ~~in OPG's~~by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Indenture Trustee, ~~one Business Day~~ prior to the earlier of (i) one Business Day prior to the incurrence or any amendment of the Primary Obligation, and (ii) on the Business Day on which the financial terms of the Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), confirming that the FSM has delivered to the Province a Process Certificate in accordance with Section **[3.01]** of the Process Agreement; and

(c) ~~(e) [NTD: This is more properly dealt with in Section 8.02~~the Province has not provided a Suspension Notice to the Indenture Trustee, the FSM and the Financing Entity in accordance with the terms of this Agreement.~~]~~[7]

[7] Province wants this mechanic embedded in the adherence conditions so it is explicitly understood and mechanically contemplated as the way the Province be sure future Limited Guarantees are cut-off opposite the indenture trustee.

- change to Funding Obligation
- Tory's seems to think it's a bit narrow
- Dealers counsel does not think there should be a cut off and after amendments + Prov should rely on OPG + Process Agt rights

4.03 Evidence of Satisfaction

A closing certificate delivered in accordance with Section 4.02 in connection with an incurrence or amendment of a Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same.

ARTICLE V
PROVINCE MATTERS

OK

5.01 Assignment and Subrogation

~~(a) Upon paying an amount in respect of an Approved Obligation:~~

~~i. to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee; or~~

~~ii. [as a result of assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI,] [NTD: This requires further discussion depending on the terms of the assignment and assumption agreement. If the Obligations Secured are assigned and assumed by the Province under Article VI, how would the Province be subrogated and entitled to the Beneficiary's rights and interests under the Approved Obligation? Consider limiting the application of this section 5.01 to the Limited Guarantee.]~~

(a) Upon paying an amount in respect of an Approved Obligation to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive distributions of such amount by the Financing Entity in accordance with and in the priority applicable to the Approved Obligation applicable in respect of the payment under the Trust Indenture, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. ~~Subject to Section 5.01(b), the~~The Province shall have and be entitled to enforce all rights and interests (including as a Specified Creditor under the Trust Indenture~~)~~ on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the

Financing Entity. ~~Subject to Section 5.01(b), the~~The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including~~, if applicable, as a Noteholder~~ as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(a) ~~(b) the~~The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province~~ will be a Specified Creditor hereunder and its entitlements~~, in its capacity as a Specified Creditor~~ are~~, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including~~, without limitation,~~ **[Section 7.11 (Payments Held in Trust), Section 8.12 (Limitation on Suits), Sections 7.04 and 8.13 (Payment Priorities), Section 8.14 (Limited Recourse) and Section 16.01 (No Petition) thereof]**~~, (ii) irrevocably authorizes and directs the Indenture Trustee on its behalf to take such action (including the execution and delivery of documents of subordination) as may be necessary or appropriate to further assure the priority arrangements provided for in **[Article VI and Sections 7.04 and 8.13 of the Trust Indenture]**, (iii) appoints the Indenture Trustee as its agent for any and all such purposes, and (iv~~ and (ii) confirms that the Indenture Trustee shall send notices to the Province, in its capacity as a Specified Creditor, in accordance with Section 9.02.

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary for whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture.

~~5.03 Voting Rights under "Outstanding Notes"~~

~~**[Notwithstanding the last three sentences of the definition of "Outstanding" in the Trust Indenture[4]:**~~

~~[4] This concept needs to be reflected in the Trust Indenture. This requires further discussion (see NTD above).~~

~~(a) Notes in connection with Approved Obligations in respect of which the Province has rights and interest pursuant to Section 5.01 shall be regarded as "Outstanding" within the meaning of the Trust Indenture; and~~

~~(b) in determining whether Noteholders of the requisite principal amount of Notes that are Outstanding (as defined in the Trust Indenture) have taken any Action under the Trust Indenture, and for the purposes of Article X of the Trust Indenture, the Province shall be deemed to have the amount of Outstanding (as defined in the Trust Indenture) Notes in proportion to its interest in such Notes based on the amounts that the Province has paid in respect of Approved Obligations under this Agreement.] [NTD: To be discussed. Giving these voting rights to the Province may affect the marketability of the debt under this program.]~~

5.03 ~~5.04~~ Province May Perform Other Program Agreement Covenants.

If the Financing Entity fails to perform any covenant under any Program Agreement, the Province may (but, except as expressly provided for under this Agreement, shall not be obligated to) perform such covenant on behalf of the Financing Entity. If the Province performs such a covenant on behalf of the Financing Entity, all sums expended or advanced by the Province in so performing the covenant will bear interest at the rate of interest determined by the Province to reflect market terms and conditions for a borrowing made by the Province at the relevant time from the date of expenditure until repayment by the Financing Entity and will (together with such interest) be paid by the Financing Entity upon demand and will until paid form part of the Obligations Secured subject to Sections **[7.04 and 8.13]** of the Trust Indenture and constitute a Finance Amount.[5] ~~[NTD: Discussion required as to how these repayments will be dealt with under the MTI, and in particular, under the waterfall provisions.]~~

5.04 ~~5.05~~ Representations and Warranties

The Province hereby represents and warrants that:

~~(a) the Province has the necessary power, authority and capacity to execute and perform its obligations under this Agreement;~~

(a) ~~(b)~~ the execution, delivery and performance ~~by the Province of this Agreement and the completion of the transactions contemplated hereby do not and will not result in a violation of any applicable law;~~of this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) ~~(c) all necessary action has been taken by the Province including, without limitation, under sections 5(2) and 5(3) of the Act and section 28(1.1) of the *Financial Administration Act*, R.S.O. 1990 c. F. 12, to authorize the~~

[5] ~~General Regulation to be revised such that "Finance Amount" picks up guarantor amounts. Under consideration by MOE~~[8] Payments to be addressed in the Trust Indenture like servicer advances under the waterfall provisions.

~~execution and~~the execution, delivery and performance of this Agreement by the Province ~~and the performance by the Province of its obligations hereunder~~do not result in the violation of any applicable law; and

(c) ~~(d)~~ this Agreement has been duly ~~authorized,~~ executed and delivered ~~on behalf of~~by the Province ~~and is a legal, valid and binding obligation of the Province, enforceable against it in accordance with its terms~~.

ARTICLE VI
NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may provide notice (in the form of Exhibit B) to the Indenture Trustee, in accordance with the terms of the Process Agreement, that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.[69]

6.03 Effect of Assumption

On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee but will instead ~~be~~become a primary obligor under the Obligations Secured assumed pursuant to and in accordance with an applicable Assumption Agreement. For greater certainty, the obligations of the Province so assumed will not be secured obligations of the Province and the obligees thereof will have no right, interest or claim to or in respect of the Collateral or any proceeds therefrom. **[NTD: Need to move Article VI of the Change of Law Process Agreement into this Article VI and amend accordingly.[10] Also, we will need to attach the form of Assumption Agreement as an Exhibit to this Agreement that will be used for the assignment and assumption of all Obligations Secured. Contrary to the statement in**

[69] Further details regarding obtaining of third party consents and rating agency approvals to be ~~considered~~provided by OPG.

[10] The idea was to not burden the external agreement with the necessary steps for the Province to be in a position to step-in. If the preference is to include more in this external agreement, the Province will not object subject to further consideration of drafting issues.

Section 6.02(f) of the Change of Law Protection Agreement, there will not be a separate form of Assumption Agreement for each Obligation Secured.[11]]

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.

6.05 Rights in respect of the Assets Comprising the Collateral

Upon assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the Financing Entity's rights and interests under and in respect of the assets, property and undertaking comprising the Collateral and all proceeds therefrom, free and clear of any liens, encumbrances or restrictions arising under or as a result of the Trust Indenture. The Province shall have and be entitled to enforce all such rights and interests as an absolute assignee of the Financing Entity, with effect from and after the time of such assumption, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing to the Financing Entity and unaffected by any other rights, interests or equities that arise thereafter in respect of the assets, property and undertaking comprising the Collateral as between the Beneficiaries and the Financing Entity. The Indenture Trustee shall thereupon recognize the Province as the absolute owner of the assets, property and undertaking comprising the Collateral.

ARTICLE VII
INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

[11] It has been assumed that there may be variations depending on the nature of the underlying obligations. A root form of Assumption Agreement, modified to conform substantially to that form in connection with a particular obligation, was the idea. To be further discussed.

7.02 Not Responsible for Recitals or Issuance of Notes

The recitals contained herein will be taken as the statements of the Province and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

7.03 Representations and Covenants of the Indenture Trustee

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;

(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;

(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and

(d) the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

~~**[Note: Any right to such matters will be the general rights of Specified Creditors as set out in the Trust Indenture.]**~~

ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

8.01 ~~Suspension Notice~~Suspension Notice

A written notice in the form of Exhibit C (a "**Suspension Notice**") may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity:

(a) ~~shall be provided by the Province to the Indenture Trustee promptly following~~upon the Province becoming aware of the occurrence of a Program Breach; and

(b) ~~may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity~~ following the occurrence of a Breach Event that has not been waived in writing by the Province.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a "**Suspension Event**"), this Change of Law Protection Agreementthe Limited Guarantee shall not apply in respect of any new Primary Obligation followingSecured incurred on or after the date oftime such Suspension Notice. **[NTD: Deletion of "or additional" is address the situation where a then current Primary Obligation requires an additional Primary Obligation in accordance with its terms of the MTI.]** is delivered. For greater certainty, the rights of the Province under Article VI shall apply in respect of all Obligations Secured, including if incurred on or after the time such Suspension Notice is delivered.

8.03 Termination Notice

On (a) the occurrence of a Suspension Event or (b) the Assumption Effective Date, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**"). Upon the delivery of such Termination Notice, the Province shall assume the Obligations Secured of the Financing Entity as primary obligor, pursuant to ARTICLE VI **[NTD: If the Province terminates the program, it must assume the obligations of the Financing Entity.]**[12]

8.04 No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with this AgreementArticle VI.

ARTICLE IX
MISCELLANEOUS

9.01 Term of Agreement

This Agreement will continue until the [later] of:

(a) the date that no amount is or may become due and payable by the Province under the Limited Guarantee; and the Trust Indenture has been terminated;

(b) **[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt ofthe date that a Termination Notice from the

[12] The suspension right in favour of the Province is intended to allow the Province to cut-off future obligations under this Agreement, but not affect rights that have arisen prior to the suspension notice. The termination notice is a further step that allows the Province to bring this agreement to an end, but that only happens (under section 9.01) after all amounts capable of becoming due under the Limited Guarantee have been paid (i.e., the last obligation incurred prior to the suspension notice has been satisfied), including as a result of an assumption under Art VI.

~~Province~~delivered in accordance with Section 8.03 is received by the Indenture Trustee, the FSM and the Financing Entity~~, the Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI; and~~.

(c) ~~**[subject to Section 8.04,] [NTD: Should this clause subject to section 8.04?]** following receipt of an Assumption Notice from the Province by the Indenture Trustee, the Assumption Effective Date being the date that the Province has assumed the Obligations Secured of the Financing Entity as primary obligor pursuant to ARTICLE VI.~~

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: [■]

Fax: (416) [■]
Email: [■]

[■]

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: [■]

Fax: (416) [■]

Email: [■]

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 Intentionally Deleted

9.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement ~~and all such Persons who are Beneficiaries derive their rights~~. Beneficiaries are not parties to this Agreement and accordingly any benefits derived hereunder shall arise exclusively through the Indenture Trustee and ~~such rights are~~shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture. ~~**[NTD: Consider merging this section 9.08 with section 1.03.]**~~

9.09 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM

By: _____
Name:
Title:

By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST~~, BY ITS MANAGER, ONTARIO POWER GENERATION INC.~~

By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration"[7] in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Adherence Conditions**", in respect of a Primary Obligation, means the conditions set out in Section 4.02.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.

"**Assumption Notice**" has the meaning ascribed thereto in Section 6.01.

"**Available Collections**" has the meaning ascribed thereto in the Trust Indenture.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Breach Event**" [means the occurrence or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of the FSM under the Process Agreement; or (b) any representation or warranty made by the FSM, any certification made by the FSM under the Process Agreement, or any certification made by the FSM in a certificate contemplated by Section 4.03 of this Agreement, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM or the Manager.][has the meaning ascribed thereto in the Process Agreement.][13]

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

[7] ~~Note: A proposal to add this concept into the Regulation is under consideration by MOE. Further modifications to follow, depending on that process.~~

[13] Consider this longer version to avoid hard-coding Process Agreement into this Agreement.

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(b).

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity.

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as may be amended prior to the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Note**" or "**Notes**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Noteholder**" has the meaning ascribed thereto under the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured ~~that is a Funding Obligation or otherwise constitutes a Finance Amount.~~(a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts that are or become payable as a result of the exercise of an option of the Financing Entity following a Protection Event; (ii) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account, or Supplemental Reserve Account; (iii) any amounts that would be remaining amounts of Available Collections required by the to be held in the Collection Account for distribution on a succeeding Payment Date pursuant to the Trust Indenture; (iv) any amount payable under a Derivative Agreement in respect of a "termination payment" where the Financing Entity's counterparty under the Derivative Agreement is a "defaulting party" or the sole "affected party" (as such terms are given meaning under the Derivative Agreement); and (v) any obligation to pay the Trust or on the Trust's direction any remaining amounts of Available Collections.

"**Process Agreement**" means the Change of Law Process Agreement dated [■], 2017 between the Province and [the FSM].

[**"Process Certificate**" has the meaning ascribed thereto in Section 3.01 of the Process Agreement.]

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Program Breach**" means [an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture] or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.~~] [NTD: To be discussed.]~~

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the [Crown], an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province, ~~[NTD: Further discussion required as to whether the Province controls the OEB for purposes of a Protection Event.]~~

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable; or

(b) a court of competent jurisdiction (i) determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, ~~or~~and (ii) issues a decision or an order preventing the Financing Entity from receiving amounts on its Investment Interest, in each case that results in the Financing Entity not having sufficient funds to pay Obligations Secured that have become due and payable.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Repayment**" has the meaning ascribed thereto in the General Regulation.

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Suspension Event**" has the meaning ascribed thereto in Section 8.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 8.01.

"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

EXHIBIT B
ASSUMPTION NOTICE

EXHIBIT C
SUSPENSION NOTICE

EXHIBIT D
TERMINATION NOTICE

EXHIBIT E

FORM OF ASSUMPTION AGREEMENT

Document comparison by Workshare Compare on Tuesday, November 14, 2017 8:00:39 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239360/10
Description	TOR_2528-#23239360-v10-CLPA_-_Protection_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239360/12
Description	TOR_2528-#23239360-v12-CLPA_-_Protection_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	155
Deletions	161
Moved from	8
Moved to	8
Style change	0
Format changed	0
Total changes	332

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST[1]

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER AND AS MANAGER OF FAIR HYDRO TRUST

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

[1] Torys and Blakes to discuss signatory on behalf of the Trust. The Manager is currently signing all Program Agreements on behalf of the Trust and has authority to do so. We would propose to do the same on the change of law agreement.

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), Computershare Trust Company of Canada, in its capacity as trustee (the "**Financing Entity Trustee**") of Fair Hydro Trust, a trust under the laws of the Province of Ontario (the "**Financing Entity**")[2], Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust[32] dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended. This Agreement sets out the terms and conditions of such protections and assurances.[3]

Paragraph referencing Process Agt was deleted.

[2] ~~Province needs the Trust as a party to be assured of its rights of subrogation, step-in, etc.~~

[32] Torys to confirm that Trust is a "financing entity" under OFHPA. Under definition, FSM to establish or cause to be established. DofT indicates Computershare declares trust. Need to have this confirmed for purposes of authority under OFHPA 5(3), among other things.

[3] OPG/Dealers are contemplating a complete purging of "Process Agreement" connections. Needs to be discussed.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein",

"hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised under, in accordance with and subject to the limitations set forth in the Trust Indenture[4] as of the date of this Agreement.

i.e. Indenture can't be changed to give specified creditors direct rights against Prov.

[4] ~~With respect to the possibility of unsanctioned amendments, the OPG proposal would allow amendments to be made in favour of bondholders to permit individual bondholders to sue the Province under this agreement. This is one circumstance that demonstrates why the Province needs the right to know about and consider all underlying amendments.~~

1.05 Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 2.01 or Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province to the extent of the performance by the Province of the Primary Obligation.

1.06 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of [the Province][4], the Indenture Trustee, the Financing Entity, the Financing Entity Trustee, the Manager or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

Province will not have successor co-trustees or agents ?

1.08 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. **[The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.] [NTD: this is unusual. Why is it necessary in this Agreement?][5]**

- needs explanation
- No

1.09 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

[4] Province to consider limitations on these sorts of forward-looking provisions.

[5] This language came from Torys' (Nina) first suggestion regarding the Process Agreement on October 20th (10:23am).

1.10 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.11 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the Financing Entity Trustee as trustee of the Financing Entity.

1.19 Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the

Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may deliver a written demand, substantially in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to make payments in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in this Agreement. From and after such delivery of a Payment Demand, the Province shall make the following payments in respect of the Approved Obligations (the "**Limited Guarantee**"), and the Financing Entity shall pay, and the Province shall be entitled to be paid, the Subrogation Amounts specified below, on the specified Payment Date:

i. Not less than [3] Business Days prior to each day when any payment or payments are to be made in respect of one or more Approved Obligations occurring after such delivery of a Payment Demand and prior to the Assumption Effective Date, if any, (a "**Guarantee Payment Date**")[5] [6] ~~, if any,~~[7] the Manager shall deliver a written statement, substantially in the form attached as Exhibit A.1 (a "**Guarantor Settlement Statement**") setting forth the Aggregate Approved Obligations Amount, if any, in respect of the Approved Obligations that are due and payable on such Guarantee Payment Date, together with a detailed description identifying such Approved Obligations and the nature and amount of payments due and payable thereunder on the Guarantee Payment Date.[8]

[5][6] PM: Interest Payment Dates and Principal Payment Dates are set in the supplements. While the present intention is to set them on Payment Dates, there is no guarantee that will always be the case.

[7] Province to consider timing of payments. The effect of the requested change is to make payments less predictable in terms of frequency.

[8] Province to consider what information it needs. We had suggested (1) aggregate outstanding amount and (2) details regarding any default – but these information requirements were deleted.

ii. On each such Guarantee Payment Date, the Province shall pay the Aggregate Approved Obligations Amount [to the Indenture Trustee][9] and the [Indenture Trustee shall deposit] such amount to the Protection Account.

iii. On each such Guarantee Payment Date, the [Indenture Trustee][10] shall apply all amounts on deposit in the Protection Account to pay each Beneficiary to whom an amount is due and payable under an Approved Obligation on the Guarantee Payment Date the Approved Obligation Amount for such Beneficiary in respect of such Approved Obligation on such Guarantee Payment Date; provided that if the amount deposited pursuant to clause 2.01(a)ii is insufficient to pay all such Approved Obligation Amounts in full, the amount on deposit in the Protection Account on the Guarantee Payment Date shall be applied to pay Beneficiaries in the order of priority in which such Approved Obligations are payable under the payment provisions of the Trust Indenture applicable to the making of such payments on the Guarantee Payment Date (each, a "**Beneficiary Payee**")[6].

iv. On any Guarantee Payment Date on which an amount is paid by the Province pursuant to clause 2.01(a)ii, the applicable payment provisions of the Trust Indenture shall, notwithstanding the express terms of such provisions set forth in the Trust Indenture, be applied and operate on the following basis:

(i) the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available under such payment provisions on such Guarantee Payment Date shall be reduced by the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on such Guarantee Payment Date;

(ii) the Province shall be paid the amount by which (x) the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available to pay the Beneficiary Payee under such payment provisions on the Guarantee Payment Date, determined without regard to subclause 2.01(a)iv(i), exceeds the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on the Guarantee Payment Date (such payments to the Province being "**Subrogation Amounts**"); and

[9] Province to consider whether amounts should be directly deposited or paid through the Indenture Trustee.

[10] Province to consider payment mechanics and consequences of relying on a covenant of the Indenture Trustee, alone.

[6] ~~For example, the effect of this is that senior notes will receive cash earmarked for sub notes based on the scheduled amounts payable for sub notes. Confirm that is the intention.~~

(iii) no Beneficiary having a right to be paid an amount in respect of an Approved Obligation that ranks equal with or subordinate to an Approved Obligation in respect of which an amount is payable to the Province under subclause 2.01(a)iv(ii) shall be entitled to make any claim or assert any right in or to the amounts paid or payable to the Province under such subclause (including any right or reimbursement, contribution or indemnity) and no such Beneficiary shall have any right or interest in, to or under the Collateral or any proceeds therefrom in respect of such amounts.

v. On any Guarantee Payment Date, the Indenture Trustee shall release and pay to the Province free and clear of any Liens any amount remaining on deposit in the Protection Account that has not been applied to pay Beneficiary Payees on the Guarantee Payment Date in accordance with clause 2.01(a)iii.

vi. In preparing any payment instructions under the Trust Indenture, the Manager shall reflect the amounts payable for the Guarantee Payment Date under Section 2.01(a).

(b) The Province shall, as a payee of Subrogation Amounts and any amounts payable under clause 2.01(a)v, be a "Specified Creditor" under the Trust Indenture and have the benefit of the Collateral thereunder.

(c) For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation and will be limited to the right to receive the Approved Obligation Amounts, if any, for payment to Beneficiary Payees and will be subject to the priorities and to the Province's rights to Subrogation Amounts, set forth in Section 2.01(a).

(d) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(e) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid by the Province when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation.

(f) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee (and to the Beneficiaries, to the extent they are permitted to exercise any rights, interests, or elections under in accordance with the Trust Indenture) under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the

Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits; provided that, for greater certainty, economic loss shall not include any amount in respect of any amount due and payable to a Beneficiary Payee under the Limited Guarantee.

2.02 Intentionally Deleted.

2.03 Absence of Set-off

Subject to applicable law, the Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Protection Account[7][11] in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account" for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section 7.03 of the Trust Indenture on the basis that it is an Issuer Account.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the [Indenture Trustee][8][12] shall apply all amounts paid by the Province into the Protection Account on a Guarantee Payment Date in respect of an Approved Obligation to pay the amounts due and payable to the Beneficiaries as and to the extent provided for in Section 2.01(a)[9]. Upon a payment having been made by or on behalf of the Province into the Protection Account, the amounts so paid shall for all purposes be considered to have been applied to pay the applicable

[7][11] Use of Protection Account to be considered by Province after required modifications to Trust Indenture have been provided.

[8] ~~Conform~~[12] Confirm.

[9] ~~For example, amounts payable in respect of subnotes will not get the amounts payable to them based on scheduled payments since senior notes will preempt them under the acceleration waterfall.~~

Beneficiaries as provided for in Section 2.01(a) and thereby reduce the amount due and payable to such Beneficiaries in respect of the applicable Approved Obligations, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid~~10~~13. For greater certainty, the obligations arising in respect of an applicable Approved Obligation shall not be reduced by such payment as the Province shall become entitled to be paid related Subrogation Amounts and the rights contemplated under Section 2.01(a) and Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety.

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the

~~10~~13 A corresponding provision needs to be added to the Trust Indenture and each other ~~contract~~Funding Obligation Agreement under which the Obligation Secured arises, so that the Beneficiaries are bound by these applications and the agreement of the Indenture Trustee under this Agreement.

account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations, or until the Province is no longer required to provide and perform the Limited Guarantee in accordance with Section 6.03 or Section 8.02.

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements[11] and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the

[11] ~~The deletion of the earlier proviso in this draft is based on the understanding that the Province will receive adequate notices of these event under the Trust Indenture. OPG will agree not to allow any of these events without confirming to the Province under the Process Certificate that the changes are within the agreed scope of the Reviewed Documents, etc.~~

Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if the Adherence Conditions applicable thereto have been satisfied at the time the Primary Obligation was incurred.

4.02 Adherence Conditions[12][14]

There shall be [no Adherence Conditions applicable in relation to: (i) a Primary Obligation that is not a Funding Obligation or (ii) a Primary Obligation that (x) arises under a Derivative Agreement, or (x) is a Funding Obligation that does not provide for the advance of more than $■ to the Financing Entity.] The following shall be the Adherence Conditions applicable in relation to a Primary Obligation [that is a Funding Obligation that does provide for the advance of more than $■ to the Financing Entity]:

(a) the Primary Obligation when incurred ~~will be~~is an Obligation Secured under the Trust Indenture; and

(b) either (x) OPG delivers an officer's certificate[15] addressed to the Indenture Trustee, prior to the entering into of the related Funding Obligation Agreement, confirming that OPG has complied with its obligations to the Province in connection with the Primary Obligation, or (y) OPG has in fact

[12] ~~The~~[14] Dealers to explain how the current structure requiring satisfaction of the adherence conditions in the Protection Agreement ~~impacts~~is more onerous than ordinary adherence conditions applicable to government guaranteed bonds and to estimate the quantum impact on the marketability of the transaction and ~~creates~~explain what uncertainty an ordinary closing condition of this type poses for investors. Note to Province: OPG/Dealers is asking to discuss moving the adherence conditions to the Process Agreement while preserving Province's oversight of its obligations under the Protection Agreement.

[15] Province: OPG deleted the specific reference to the CFO/Treasurer. Other drafting issues include (1) removal of reference to the earlier of pricing or closing (2) tying to the "Funding Obligation Agreement", which may permit future incurrences without any additional documentation (meaning that the incurrence test would not apply to those further obligations (3) references to OPG having "complied with its obligations to the Province", which is an ineffective reference since external parties will have no sense of what these are and the fact that there are no relevant obligations owed to the Province under the Protection Agreement and (4) there is a circular concept that refers to actual compliance being sufficient for adherence in lieu of the external purpose of the certificate delivery requirement. Each of these issues raises potential issues for the Province, which should be discussed.

complied with its obligations to the Province in connection with the Primary Obligation; and

(c) the Province has not provided a Suspension Notice to the Indenture Trustee, the FSM and the Financing Entity in accordance with the terms of this Agreement.

For greater certainty, satisfaction of the Adherence Conditions for ~~any~~a Funding Obligation shall be deemed satisfaction of the Adherence Conditions in respect of all principal, interest and other amounts owing under, or in respect of, the Funding Obligation and the related Funding Obligation Agreement as such agreement may be amended, restated, supplemented or otherwise modified from time to time.[13]

4.03 Evidence of Satisfaction

A closing certificate delivered in accordance with Section 4.02(b)(x) in connection with an incurrence of a Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same.

ARTICLE V
PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive the related Subrogation Amounts, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. The Province shall have and be entitled to enforce all rights and interests (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation to the extent of the payment by the Province in respect of the Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of

[13] ~~This language was added to track Section 2(2) of the regs and ensure that there is no obligation to satisfy the Adherence Conditions every time interest is incurred in respect of a Funding Obligation for which the Adherence Conditions have already been satisfied.~~

payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province, in its capacity as a Specified Creditor, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including **[Section 7.11 (Payments Held in Trust), Section 8.12 (Limitation on Suits), Sections 7.04 and 8.13 (Payment Priorities), Section 8.14 (Limited Recourse) and Section 16.01 (No Petition) thereof]** and (ii) confirms that the Indenture Trustee shall send notices to the Province, in its capacity as a Specified Creditor, in accordance with Section 9.02.[14][16]

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary to whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture in the manner and to the extent contemplated in Section 2.01.

5.03 Province May Perform Other Program Agreement Covenants.[15][17]

If the Financing Entity fails to perform any covenant under any Program Agreement, the Province may (but, except as expressly provided for under this Agreement, shall not be obligated to) perform such covenant on behalf of the Financing Entity. If the Province performs such a covenant on behalf of the Financing Entity, all sums expended or advanced by the Province in so performing the covenant will bear interest at the rate of interest determined by the Province to reflect market terms and conditions for a borrowing made by the Province at the relevant time

[14][16] Section to be updated to conform with section in the Trust Indenture once settled.

[15] ~~To be confirmed this covenant is only meant to apply following a Payment Demand? Note that once the~~[17] Note to Province ~~exercises this right, ,the~~: OPG is advising that desired accounting treatment will be lost if this covenant leads to use in the future. Should this be deleted for simplicity – it was originally included by Blakes to provide the Province with a different level of optionality, but it probably not worth any further struggle based on feedback from OPG and perhaps bade optics to have included in the first place.

Following a Protective Event

Following the occurrence of a Protective Event

from the date of expenditure until repayment by the Financing Entity and will (together with such interest) be paid by the Financing Entity upon demand and will until paid form part of the Obligations Secured subject to Sections **[7.04 and 8.13]** of the Trust Indenture and constitute a Finance Amount.[1618]

5.04 Representations and Warranties

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may (but shall not be obligated to) provide notice (in the form of Exhibit B) to the Indenture Trustee that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.[1719]

6.03 Effect of Assumption

On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee but will instead become a primary obligor under the Obligations Secured assumed pursuant to and in accordance with an applicable Assumption Agreement. For greater certainty, the obligations of the Province so assumed will not be secured obligations of the Province and the obligees thereof will have no right, interest or claim to or in respect of the Collateral or any

[1618] Payments to be addressed in the Trust Indenture like servicer advances under the waterfall provisions.
[1719] Further details regarding obtaining of third party consents and rating agency approvals to be provided by OPG.

proceeds therefrom. **[NTD: the forms of assumption agreement(s) need to be settled before this agreement is finalized.]**

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.

6.05 Rights in respect of the Assets Comprising the Collateral

Upon assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the Financing Entity's rights and interests under and in respect of the assets, property and undertaking comprising the Collateral and all proceeds therefrom, free and clear of any liens, encumbrances or restrictions arising under or as a result of the Trust Indenture. The Province shall have and be entitled to enforce all such rights and interests as an absolute assignee of the Financing Entity, with effect from and after the time of such assumption, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing to the Financing Entity and unaffected by any other rights, interests or equities that arise thereafter in respect of the assets, property and undertaking comprising the Collateral as between the Beneficiaries and the Financing Entity. The Indenture Trustee and the Beneficiaries shall thereupon recognize the Province as the absolute owner of the assets, property and undertaking comprising the Collateral.

ARTICLE VII
INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

7.02 Not Responsible for Recitals or Issuance of Notes

The recitals contained herein will be taken as the statements of the Province, the Financing Entity and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

7.03 Representations and Covenants of the Indenture Trustee

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;

(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;

(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and

(d) the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

8.01 Suspension Notice

A written notice in the form of Exhibit C (a "**Suspension Notice**") may be provided by the Province to the Indenture Trustee, the FSM and the Financing Entity in any of the following circumstances:

- bonds accelerating -

(a) following the Province becoming aware of the occurrence of a Program Breach; and

(b) following the occurrence of a Breach Event that has not been waived in writing by the Province.

[…may be provided by the Province to the Indenture Trustee, [the FSM and the Financing Entity following the Province becoming aware of the occurrence of a Program Breach.]

[NTD: the concept of Breach Event has been removed from Protection Agreement and replaced by provisions in the Process Agreement providing that upon notice of a Breach Event to OPG in the Process Agreement, OPG will not be permitted to deliver the certificate required to satisfy the Adherence Conditions. This was done to cleanse the Protection Agreement of any references to the Process Agreement but leave the Province in the ~~same~~ position of being able to (indirectly) suspend application of the change of law agreement to future issuances upon a Breach Event.][20]

[20] This is the OPG/Dealers proposal. Blakes recommends that this delinkage not be accepted by the Province. Further colour on this point is included in the mark-up of the relevant provisions of the Process Agreement.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a "**Suspension Event**"), the Limited Guarantee shall not apply in respect of any Obligation Secured incurred or amended on or after the time such Suspension Notice is delivered. For greater certainty, the rights of the Province under Article VI shall apply in respect of all Obligations Secured, including if incurred or amended on or after the time such Suspension Notice is delivered[18].

8.03 Termination Notice

On (a) the occurrence of a Suspension Event or (b) the Assumption Effective Date, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**").

8.04 No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with Article VI.

ARTICLE IX
MISCELLANEOUS

9.01 Term of Agreement

This Agreement will continue until the later of:

(a) the date that no amount is or may become due and payable by the Province under the Limited Guarantee; and

(b) the date that a Termination Notice delivered in accordance with Section 8.03 is received by the Indenture Trustee, the FSM and the Financing Entity.

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the

[18] ~~This will be affected by the resolution of the "amendments" point.~~

time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: [■]
Fax: (416) [■]
Email: [■]

[■]

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: [■]

Fax: (416) [■]

Email: [■]

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

(c) [Notwithstanding Section 9.03(a), assignments and participations of the rights and obligations of the Indenture Trustee and Specified Creditors (other than the Province) in accordance with the terms of the Trust Indenture may also assign the rights and obligations of the Indenture Trustee and Specified Creditors under this Agreement.][21]

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

[21] The scope of this provision needs to be explained to the Province. Any further step of this sort raises important new issues and so should be subject to Province consent. Blakes recommends that this not be accepted by the Province without detailed consideration as to its impact and breadth/scope of impact.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 Intentionally Deleted

9.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement. Beneficiaries derive their benefits hereunder through the Indenture Trustee and shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture.

9.09 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM AND AS MANAGER

By: _____
Name:
Title:

By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA, IN ITS CAPACITY AS TRUSTEE OF FAIR HYDRO TRUST, AS ISSUER, [BY ONTARIO POWER GENERATION INC., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS MANAGER][22]

By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

[22] To be discussed.

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS[19]

"**Acceleration**" has the meaning ascribed to the term "acceleration" in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture.

"**Adherence Conditions**", in respect of a Primary Obligation, means the conditions set out in Section 4.02.

"**Aggregate Approved Obligations Amount**" means, in respect of a Guarantee Payment Date, the aggregate of the Approved Obligation Amounts for such Guarantee Payment Date.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Approved Obligation Amount**" means, for a Beneficiary in respect of an Approved Obligation under which an amount is due and payable on a Guarantee Payment Date:

(a) if no Acceleration has occurred in respect of any Obligation Secured on or before the Guarantee Payment Date, the amount due and payable to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation (for greater certainty, determined on the assumption that there are adequate amounts available under the applicable payment provisions of the Trust Indenture to pay in full all amounts referred to in such payment provisions that are due and payable on the Guarantee Payment Date); and

tied to end of moratorium period only

(b) if an Acceleration has occurred in respect of any Obligations Secured on or before the Guarantee Payment Date, the amount that would be available to be paid to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation under the applicable payment provisions of the Trust Indenture, determined on the assumption that the amount available for allocation to Specified Creditors in accordance with ~~the terms~~such applicable payment provisions of the Trust Indenture in respect of each relevant month [during each Reference Period from and after May, 2021][23] is equal to [the Finance Amount in respect of such

[19] ~~If Province is satisfied that it will receive notice of any amendments, waivers, etc. under the various agreements, and corresponding rights under the trust indenture, Province will not require veto rights over changes to the defined terms in the MTI. All of this is predicated on Province receiving comfort from OPG that no changes, amendments, waivers, etc. will be made if outside the pre-agreed scope of the reviewed documents.~~

[23] What about earlier periods? Are they covered at all, or are they determined without regard to the acceleration mechanics of the Regulation?

Energy

Reference Period][24] divided by the number of months in such Reference Period.[2025]

"**Assumption Agreement**" means the agreement among the Province, the Indenture Trustee, the Financing Entity and any other person that is party to the Funding Obligation Agreement affected by the assignment and assumption contemplated under Article VI, which agreement shall be in substantially the form of the form of assumption agreement set forth in Exhibit E.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.

"**Assumption Notice**" has the meaning ascribed thereto in Section 6.01.

"**Available Collections**" has the meaning ascribed thereto in the Trust Indenture.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Beneficiary Payee**" has the meaning ascribed thereto in Section 2.01(a)iii.

re-insert

[DELETION OF "BREACH EVENT" TO BE CONSIDERED BY THE PROVINCE]

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar

[24] Tying to the Finance Amount (1) creates ambiguity regarding whether the amounts payable are limited by acceleration and (2) does not allow for the forward looking estimates and true ups that are envisioned in the Regulation. Province to consider in detail since critical.

[2025] PM: the challenge is that the permitted acceleration amount is determined under the Regulations but in a post-change of law environment, we don't know what provisions of the Regulation remain [But the test is 'what would have happened' and the reference to Regulation for this purpose can be tied back to the date of the Agreement]. By going to "Finance Amount", we are using a defined term that is frozen at the date of this agreement.

transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture.

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Guarantee Payment Date**" has the meaning ascribed thereto in Section 2.01(a).

"**Guarantor Settlement Statement**" has the meaning ascribed thereto in Section 2.01(a).

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(a).

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity, as amended, supplemented, restated or otherwise modified from time to time.

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as amended, supplemented, restated or otherwise modified from time to time.

"**Note**" or "**Notes**" has the meaning ascribed thereto under the Trust Indenture.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

"**Paying Agent**" has the meaning ascribed thereto in the Trust Indenture.

[DELETION OF PAYMENT DATE (15TH OF MONTH) UNDER CONSIDERATION BY THE PROVINCE]

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured (a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account, Finance Reserve Account, or Supplemental Reserve Account; (ii) any amounts that would be remaining amounts of Available Collections required by the to be held in the Collection Account for distribution on a succeeding Payment Date pursuant to the Trust Indenture; and (iii) any obligation to pay the Trust or on the Trust's direction any remaining amounts of Available Collections.

[DEFINITION OF SPECIFIC TERMS LINKED TO THE PROCESS AGREEMENT ARE UNDER CONSIDERATION BY THE PROVINCE]

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Program Breach**" means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the [Crown], an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province,

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise, [other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable][26]; or

(b) a court of competent jurisdiction determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its

[26] Drafting under consideration. Could this be negating of the materiality condition, rather than an exception as intended.

- allow to call a prot event

exit - Trustee that change is ok w. me. For greater clarity

Investment Interest so that it can pay Obligations Secured and that has the effect of the Financing Entity not in fact having sufficient funds to pay such Obligations Secured that have become due and payable.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture.

"**Repayment**" has the meaning ascribed thereto in the General Regulation.

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Subrogation Amounts**" has the meaning ascribed thereto in subclause 2.01(a)iv(ii).

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture.

"**Suspension Event**" has the meaning ascribed thereto in Section 8.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 8.01.

"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

EXHIBIT A.1
FORM OF GUARANTOR SETTLEMENT STATEMENT

EXHIBIT B
ASSUMPTION NOTICE

EXHIBIT C
SUSPENSION NOTICE

EXHIBIT D
TERMINATION NOTICE

EXHIBIT E

FORM OF ASSUMPTION AGREEMENT

Document comparison by Workshare Compare on Tuesday, November 21, 2017 8:49:08 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239360/16
Description	TOR_2528-#23239360-v16-CLPA_-_Protection_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239360/17
Description	TOR_2528-#23239360-v17-CLPA_-_Protection_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	Count
Insertions	107
Deletions	65
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	172

Draft: November ~~21,~~28, 2017

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE[1]

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST[1,2]

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER AND AS MANAGER OF FAIR HYDRO TRUST

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

[1] This Agreement and the Process Agreement will need to be effective on closing but signed and held in escrow as soon as they are settled and prior to pricing of the term deal. **Note to Torys:** Logistics of closing are under consideration.

[4] ~~Torys and Blakes to discuss signatory~~[2] **Torys Note:** Please advise if there are any further issues with the Manager signing the Protection Agreement on behalf of the Trust? If so, can you please explain the issue. The Manager is currently signing all Program Agreements on behalf of the Trust and has authority to do so. We would ~~propose to do the same on the change of law agreement~~ like the Manager to sign this Agreement on behalf of the Trust. **Note to Torys:** Manager derives authority under the Management Agreement to sign Program Agreements. Management Agreement powers determined by reference to the Program Agreements, so authority is circular. Ultimately, Province will accept the opinion of Torys on due execution point.

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), Computershare Trust Company of Canada, in its capacity as trustee (the "**Financing Entity Trustee**") of Fair Hydro Trust, a trust under the laws of the Province of Ontario (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

■ Insert bullet

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust[2][3] dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Primary Obligations ~~Secured~~ that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence

[2] ~~Torys to confirm that Trust is a "financing entity" under OFHPA. Under definition, FSM to establish or cause to be established. DoFT indicates Computershare declares trust. Need to have this confirmed for purposes of authority under OFHPA 5(3), among other things~~

[3] **Torys Note:** We are comfortable on this point because OPG has retained Computershare as issuer trustee. The recitals of the Declaration of Trust provide that Computershare has established the Trust at the request of the FSM. We can also provide you with a copy of the Computershare engagement letter upon request. **Note to Torys:** The Province will accept authorities opinion regarding the Trust from Torys.

Conditions at the time the Approved Obligation is incurred ~~or amended~~. This Agreement sets out the terms and conditions of such protections and assurances.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised under, in accordance with and subject to the limitations set forth in the Trust Indenture as of the date of this Agreement.

1.05 Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 2.01 or Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province to the extent of the performance by the Province of the Primary Obligation.

1.06 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee, the Financing Entity, the Financing Entity Trustee, the Manager or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.08 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.09 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.11 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR

OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest

calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the Financing Entity Trustee as trustee of the Financing Entity.

1.19 Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able

on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may deliver a written demand, substantially in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to make payments in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in this Agreement. From and after such delivery of a Payment Demand, the Province shall make the following payments in respect of the Approved Obligations (the "**Limited Guarantee**"), and the Financing Entity shall pay, and the Province shall be entitled to be paid, the Subrogation Amounts specified below, on the specified Guarantee Payment Date:

i. Not less than ~~[~~3~~]~~ Business Days prior to each day when any payment or payments are to be made in respect of one or more Approved Obligations occurring after such delivery of a Payment Demand and prior to the Assumption Effective Date, if any, (a "**Guarantee Payment Date**"), the Manager shall deliver a written statement~~, substantially in the form attached as Exhibit A.1 (a "Guarantor Settlement Statement")~~ setting forth the Aggregate Approved Obligations Amount, if any, in respect of the Approved Obligations that are due and payable on such Guarantee Payment Date, together with a detailed description identifying such Approved Obligations and the nature and amount of payments due and payable thereunder on the Guarantee Payment Date, the aggregate outstanding amount payable by the Financing Entity under such Approved Obligations as of the date of ~~the Guarantor Settlement Statement~~such written statement, and details regarding any default in performance by any party obligated thereunder.

ii. On each such Guarantee Payment Date, the Province shall deposit the Aggregate Approved Obligations Amount into the Protection Account.

iii. On each such Guarantee Payment Date, the Financing Entity and the Indenture Trustee shall ensure that the amounts on deposit in the Protection Account are applied to pay each Beneficiary to whom an amount is due and payable under an Approved Obligation on the Guarantee Payment Date the Approved

Obligation Amount for such Beneficiary in respect of such Approved Obligation on such Guarantee Payment Date; provided that if the amount deposited pursuant to clause 2.01(a)ii is insufficient to pay all such Approved Obligation Amounts in full, the amount on deposit in the Protection Account on the Guarantee Payment Date shall be applied to pay Beneficiaries in the order of priority in which such Approved Obligations are payable under the payment provisions of the Trust Indenture applicable to the making of such payments on the Guarantee Payment Date (each, a "**Beneficiary Payee**").

iv. On any Guarantee Payment Date on which an amount is paid by the Province pursuant to clause 2.01(a)ii, the applicable payment provisions of the Trust Indenture shall, notwithstanding the express terms of such provisions set forth in the Trust Indenture, be applied and operate on the following basis:

(A) ~~(i)~~ the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available under such payment provisions on such Guarantee Payment Date shall be reduced by the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on such Guarantee Payment Date;

(B) ~~(ii)~~ the Province shall be paid the ~~amount by which~~lesser of (x) the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available to pay the Beneficiary Payee under such payment provisions on the Guarantee Payment Date, determined without regard to subclause 2.01(a)iv(~~i~~A), ~~exceeds~~and (y) the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on the Guarantee Payment Date (such payments to the Province being "**Subrogation Amounts**"); and

(C) ~~(iii)~~ no Beneficiary having a right to be paid an amount in respect of an Approved Obligation that ranks equal with or subordinate to an Approved Obligation in respect of which an amount is payable to the Province under subclause 2.01(a)iv(~~ii~~B) shall be entitled to make any claim or assert any right in or to the amounts paid or payable to the Province under such subclause (including any right or

reimbursement, contribution or indemnity) and no such Beneficiary shall have any right or interest in, to or under the Collateral or any proceeds therefrom in respect of such amounts.

v. On any Guarantee Payment Date, the Indenture Trustee shall release and pay to the Province free and clear of any Liens any amount remaining on deposit in the Protection Account that has not been applied to pay Beneficiary Payees on the Guarantee Payment Date in accordance with clause 2.01(a)iii.

vi. In preparing any payment instructions under the Trust Indenture, the Manager shall reflect the amounts payable for the Guarantee Payment Date under Section 2.01(a).

(b) The Province shall, as a payee of Subrogation Amounts under clause 2.01(a)(iv)(B) and any amounts payable under clause 2.01(a)(v), be a "Specified Creditor" under the Trust Indenture and have the benefit of the Collateral thereunder.

(c) For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation and will be limited to the right to receive the Approved Obligation Amounts, if any, for payment to Beneficiary Payees and will be subject to the priorities and to the Province's rights to Subrogation Amounts, set forth in Section 2.01(a).

(d) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(e) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid by the Province when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation by their terms.

(f) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee (and to the Beneficiaries, to the extent they are permitted to exercise any rights, interests, or elections under and in accordance with the Trust Indenture) under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits; provided that, for greater certainty, economic loss shall not include any amount in respect of any

amount due and payable to a Beneficiary Payee under the Limited Guarantee.

2.02 Intentionally Deleted.

2.03 Absence of Set-off

Subject to applicable law, the Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Protection Account[3] in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account" for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section [7.03] of the Trust Indenture on the basis that it is an Issuer Account.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Financing Entity and the Indenture Trustee shall ensure that all amounts paid by the Province into the Protection Account on a Guarantee Payment Date in respect of an Approved Obligation are applied to pay the amounts due and payable to the Beneficiaries as and to the extent provided for in Section 2.01(a). Upon a payment having been made by or on behalf of the Province into the Protection Account, the amounts so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries as provided for in Section 2.01(a) and thereby reduce the amount due and payable to such Beneficiaries in respect of the applicable Approved Obligations, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in

[3] ~~Mechanics of Protection Account to be considered by Province after required modifications to Trust Indenture have been provided.~~

respect of the Approved Obligation to the extent so paid[4]. For greater certainty, the obligations arising in respect of an applicable Approved Obligation shall not be reduced by such payment as the Province shall become entitled to be paid related Subrogation Amounts and the rights contemplated under Section 2.01(a) and Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety.

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment,

[4] ~~A corresponding provision needs to be added to the Trust Indenture and each other Funding Obligation Agreement under which the Obligation Secured arises, so that the Beneficiaries are bound by these applications and the agreement of the Indenture Trustee under this Agreement.~~

decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations~~, or until the Province is no longer required to provide and perform the Limited Guarantee~~ in accordance with Section ~~6.03 or Section 8.02~~.8.01.

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if (i) the Adherence Conditions applicable thereto have been satisfied at the time the Primary Obligation was incurred, or (ii) the Province, in its sole discretion, designates in writing that it is an Approved Obligation.

4.02 Adherence Conditions[5]

The following shall be the Adherence Conditions applicable in relation to each Certified Primary Obligation ~~other than any Funding Obligation under which not more than $■ in the aggregate may become payable by the Financing Entity~~:

(a) the Certified Primary Obligation when incurred is an Obligation Secured under the Trust Indenture; and

(b) OPG, as FSM, delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG ~~(or their respective designees, provided that such designees are executive officers of OPG and,~~ , or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Indenture Trustee, ~~one Business Day prior to the Financing Entity entering into or becoming bound by the related Funding Obligation Agreement~~on or before the incurrence of a Certified Primary Obligation (provided that delivery may not be more than 5 Business Days before the incurrence of the Certified Primary Obligation), confirming that OPG has delivered to the Province a certificate signed by the Chief Financial Officer and the Treasurer of OPG, ~~(or their respective designees, provided that such designees are executive officers of OPG and,~~ or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) confirming that OPG has complied with all of its obligations to the Province and internal requirements and processes in

[5] ~~Dealers to explain how the current structure requiring satisfaction of the adherence conditions in the Protection Agreement is more onerous than ordinary adherence conditions applicable to government guaranteed bonds and to estimate the quantum impact on the marketability of the transaction and explain what uncertainty an ordinary closing condition of this type poses for investors.~~

connection with the adherence of the Limited Guarantee to the Certified Primary Obligation; and

(c) in respect of a Certified Primary Obligation other than a Refinancing of a Primary Obligation in respect of which the Adherence Conditions had been satisfied, the Province has not provided a Suspension Notice to the Indenture Trustee, OPG and the Financing Entity.

For greater certainty, (y) satisfaction of the Adherence Conditions for a ~~Funding~~Certified Primary Obligation shall be deemed satisfaction of the Adherence Conditions in respect of all principal, interest and other amounts owing under the ~~Funding~~Certified Primary Obligation, as such ~~Funding~~Certified Primary Obligation may be amended, restated, supplemented or otherwise modified from time to time, and (z) there shall be no Adherence Conditions applicable in relation to a Primary Obligation that is not a Certified Primary Obligation.

4.03 Evidence of Satisfaction

A closing certificate delivered in accordance with Section 4.02(b)~~(x)~~ in connection with an incurrence of a Certified Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same. A closing certificate that purports on its face to be signed by officers specified in Section 4.02(b) may be relied upon by any addressee without further enquiry or evidence as to the incumbency or signatures of such officers. If a closing certificate is not delivered in accordance with the timing requirements of Section 4.02(b) in respect of a Certified Primary Obligation, such certificate may be delivered at a later date, and be effective as if it had been delivered in accordance with the timing requirement of Section 4.02(b), if at the time such certificate was required to be delivered OPG had delivered to the Province all certifications required by the Province in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation.

ARTICLE V
PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive the related Subrogation Amounts, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. The Province shall have and be entitled to enforce all rights and interests

(including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation to the extent of the payment by the Province in respect of the Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province, in its capacity as a Specified Creditor, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including **[Sections 7.04 through 7.11 and 8.13 (Payment Priorities), Section ~~7.11~~7.12 (Payments Held in Trust), Section 8.11 (Control by Controlling Class Creditors), Section 8.12 (Limitation on Suits), ~~Sections 7.04 and 8.13 (Payment Priorities),~~ Section 8.14 (Limited Recourse), Section 9.14 (Communications to Specified Creditors) and Section 16.01 (No Petition) ~~thereof]~~ and ~~(ii~~]**; (ii) consents, requests and authorizes the Issuer and the Indenture Trustee to (x) add the Province to the register of Specified Creditors described in subsection **[13.13(b)]** of the Trust Indenture and (y) disseminate the notice details of the Province to other Specified Creditors for the purposes set out in subsection **[9.14(b)]** of the Trust Indenture, and (iii) confirms that the Indenture Trustee shall send notices to the Province, in its capacity as a Specified Creditor, in accordance with Section ~~9.02~~8.02.[6]

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary to whom a Limited Guarantee payment is made in

[6] ~~Section to be updated to conform with section in the Trust Indenture once settled.~~

respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture in the manner and to the extent contemplated in Section ~~2.01~~ 7.1(d) of the Trust Indenture. OK.

5.03 Intentionally Deleted This should be renumbered now? if conforming

5.04 Representations and Warranties

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

~~**ARTICLE VI**~~
~~**NOTICE OF ASSUMPTION OF OBLIGATIONS SECURED**~~

~~**6.01 Delivery of Assumption Notice**~~

~~Following the occurrence of a Protection Event, the Province may (but shall not be obligated to) provide notice (in the form of Exhibit B) to the Indenture Trustee that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of the Obligations Secured will be effective (the "**Assumption Closing Date**").~~

~~**6.02 Cooperation to Implement the Assignment and Assumption**~~

~~The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the Assumption Closing Date.[7]~~

~~**6.03 Effect of Assumption**~~

~~On the date that the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee but will instead become a primary obligor under the Obligations Secured assumed pursuant to~~

~~[7] Further details regarding obtaining of third party consents and rating agency approvals to be provided by OPG.~~

~~and in accordance with an applicable Assumption Agreement. For greater certainty, the obligations of the Province so assumed will not be secured obligations of the Province and the obligees thereof will have no right, interest or claim to or in respect of the Collateral or any proceeds therefrom. [NTD: the forms of assumption agreement(s) need to be settled before this agreement is finalized.]~~

~~6.04 Interim Period~~

~~Until the effective time of the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee.~~

~~6.05 Rights in respect of the Assets Comprising the Collateral~~

~~Upon assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the Financing Entity's rights and interests under and in respect of the assets, property and undertaking comprising the Collateral and all proceeds therefrom, free and clear of any liens, encumbrances or restrictions arising under or as a result of the Trust Indenture. The Province shall have and be entitled to enforce all such rights and interests as an absolute assignee of the Financing Entity, with effect from and after the time of such assumption, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing to the Financing Entity and unaffected by any other rights, interests or equities that arise thereafter in respect of the assets, property and undertaking comprising the Collateral as between the Beneficiaries and the Financing Entity. The Indenture Trustee and the Beneficiaries shall thereupon recognize the Province as the absolute owner of the assets, property and undertaking comprising the Collateral.~~

~~ARTICLE VI~~ARTICLE VII
INDENTURE TRUSTEE MATTERS

6.01 ~~7.01~~ Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

6.02 ~~7.02~~ Not Responsible for Recitals ~~or Issuance of Notes~~

The recitals contained herein will be taken as the statements of the Province, the Financing Entity and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

6.03 ~~7.03~~ Representations and Covenants of the Indenture Trustee[4]

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada; and

~~(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;~~

~~(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and~~

(b) ~~(d)~~ the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

ARTICLE VII~~ARTICLE VIII~~
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

7.01 ~~8.01~~ Suspension Notice

Upon:

(a) a Program Breach;

(b) a default in the performance, or breach, of any covenants of OPG, as FSM, or OPG, in its corporate capacity, in each case to the Province in connection with its obligations to the Province pursuant to internal requirements and processes in connection with the adherence of the Limited Guarantee, which continues for thirty (30) days after written notice by the Province to OPG of such default or breach;

[4] **Torys Note:** The Indenture Trustee asked us to delete these representations. They will not provide these types of representations without attaining a legal opinion from outside counsel. To avoid delay, we would ask that the parties agree to this deletion. **Note to Torys:** The representations provided by the Indenture Trustee should be consistent with those in the Trust Indenture.

(c) a representation or warranty made by OPG or a certification made by one or more officers of OPG, in each case whether as FSM or in its corporate capacity, to the Province in connection with its obligations to the Province pursuant to internal requirements and processes in connection with the adherence of the Limited Guarantee, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or

(d) the FSM no longer being the Manager or actions having been taken by or on behalf of the Indenture Trustee to remove the FSM as the Manager,

~~The~~the Province may~~, at any time and for any reason,~~ declare that the Limited Guarantee under this Agreement shall not apply to any ~~Obligation Secured~~Primary Obligations incurred on or after such declaration, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied, by delivering a written notice in the form of Exhibit ~~C~~B (a "**Suspension Notice**")~~ to the Province~~ to the Indenture Trustee, the FSM and the Financing Entity.

The Limited Guarantee shall apply to any Certified Primary Obligation incurred after a Suspension Event on the basis that it is a Refinancing only if the FSM certifies to the Province in writing prior to the incurrence that the proceeds of such incurrence will be used solely for the purposes of repaying one or more Certified Primary Obligations incurred prior to the Suspension Event and to which the Limited Guarantee adhered as of the time the Suspension Event occurred, and the delivery of such written certification by the FSM to the Province shall be determinative for the purposes of concluding that such incurrence is a Refinancing for the purposes of Sections 7.01, 7.02 and 7.03.

7.02 ~~8.02~~ Suspension

did not accept deletion of "amended"

If a Suspension Notice has been provided under Section ~~8.01~~7.01 (the provision of such notice being a "**Suspension Event**"), the Limited Guarantee shall not apply in respect of any Primary Obligation ~~Secured~~ incurred or amended on or after the time such Suspension Notice is delivered, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied. ~~For greater certainty, the rights of the Province under Article VI shall apply in respect of all Obligations Secured, including if incurred or amended on or after the time such Suspension Notice is delivered.~~

~~8.03 Termination Notice~~

~~On (a) the occurrence of a Suspension Event or (b) the Assumption Effective Date, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**").~~

7.03 ~~8.04~~ No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish

the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event or in respect of any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied~~, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with Article VI~~.

~~ARTICLE VIII~~ARTICLE IX
MISCELLANEOUS

8.01 ~~9.01~~ Term of Agreement

~~This Agreement will continue until the later of:~~

~~(a)~~ ~~the~~ This Agreement will continue until the date that no amount is or may become due and payable by the Province under the Limited Guarantee~~; and~~.

~~(b) the date that a Termination Notice delivered in accordance with Section 8.03 is received by the Indenture Trustee, the FSM and the Financing Entity.~~

8.02 ~~9.02~~ Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: ~~[~~■~~]~~General Counsel
Fax: (416) ~~[~~■~~]~~

~~Email: [■]~~592-4189

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: ~~[■]~~Manager, Corporate Trust
Fax: (416) ~~[■]~~981-9777
Email: ~~[■]~~corporatetrust.toronto@computershare.com

~~[■]~~

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: ~~[■]~~General Counsel
Fax: (416) ~~[■]~~592-4189

~~Email: [■]~~

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

- who should get notice of payment demand etc?

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section ~~9.02~~8.02.

8.03 ~~9.03~~ Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section ~~9.03~~8.03 shall be null and void.

8.04 ~~9.04~~ Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.05 ~~9.05~~ FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

8.06 ~~9.06~~ No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

8.07 ~~9.07~~ Intentionally Deleted

8.08 ~~9.08~~ Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement. Beneficiaries derive their benefits hereunder through the Indenture Trustee and shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture.

8.09 ~~9.09~~ **Delivery of Executed Copies**

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM AND AS MANAGER

By: _____
Name:
Title:
By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA, IN ITS CAPACITY AS TRUSTEE OF FAIR HYDRO TRUST, AS ISSUER, ~~[~~BY ONTARIO POWER GENERATION INC., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS MANAGER~~]~~[8]

By: _____
Name:
Title:
By: _____
Name:
Title:

[8] ~~To be discussed.~~

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration" in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture.

"**Adherence Conditions**", means, in respect of a Certified Primary Obligation, ~~means~~ the conditions set out in Section 4.02.

"**Aggregate Approved Obligations Amount**" means, in respect of a Guarantee Payment Date, the aggregate of the Approved Obligation Amounts for such Guarantee Payment Date.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Approved Obligation Amount**" means, for a Beneficiary in respect of an Approved Obligation under which an amount is due and payable on a Guarantee Payment Date:

(a) if no Acceleration has occurred in respect of any Obligation Secured on or before the Guarantee Payment Date, the amount due and payable to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation (for greater certainty, determined on the assumption that there are adequate amounts available under the applicable payment provisions of the Trust Indenture to pay in full all amounts referred to in such payment provisions that are due and payable on the Guarantee Payment Date); and

(b) if an Acceleration has occurred in respect of any Obligations Secured on or before the Guarantee Payment Date, the amount that would be available to be paid to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation under the applicable payment provisions of the Trust Indenture, determined on the assumption that the amount available for allocation to Specified Creditors in accordance with such applicable payment provisions of the Trust Indenture in respect of each relevant month [during each Reference Period ~~from and after May, 2021~~][9] is equal to the [estimated ~~finance amount~~Finance Amount determined in respect of such Reference Period ~~pursuant to~~for purposes of section 15(1) of the ~~General Regulation (as set forth~~Act (in effect on

[9] ~~What about earlier periods? Are the earlier periods covered at all, or is the intention that they would be determined without regard to the acceleration mechanics of the Regulation?~~

the date hereof)]~~[10]~~[105] divided by the number of months in such Reference Period.

~~"**Assumption Agreement**" means the agreement among the Province, the Indenture Trustee, the Financing Entity and any other person that is party to the Funding Obligation Agreement affected by the assignment and assumption contemplated under Article VI, which agreement shall be in substantially the form of the form of assumption agreement set forth in Exhibit E.~~

~~"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.~~

~~"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.~~

~~"**Assumption Notice**" has the meaning ascribed thereto in Section 6.01.~~

~~"**Available Collections**" has the meaning ascribed thereto in the Trust Indenture.~~

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Beneficiary Payee**" has the meaning ascribed thereto in Section 2.01(a)iii.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Certified Primary Obligations**" means Primary Obligations that are: (i) incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest or to repay payment obligations that were incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest,[6] (ii) incurred by or on behalf of the Financing Entity upon the Financing Entity entering into a Derivative Agreement, in which case the Certified Primary Obligation therefor shall be the Master Agreement applicable to such Derivative Agreement and not each individual trade confirmation, or (iii) incurred by or on behalf of the Financing Entity upon entering into a contract that has a term of more than three (3) years which is not terminable by the Financing Entity giving three (3) years' notice or less and aggregate payments

[10] ~~This needs to tie into the "estimated finance amount" determined under the General Regulation applicable during the Reference Period.~~[5] **Note to Province**: MOE should confirm that this captures the limitations contemplated in connection with any "acceleration" under the revised Regulation. Consider whether it is necessary to refer specifically to the Regulation to avoid any disconnect, and to tie-in specifically to the context of the acceleration scenario applicable at the time.

[6] **Torys Query**: For a warehouse facility, does the Province want a Certificate for each monthly draw? **Note to Province:** Please advise. We may respond that to extent the draw is a Certified Primary Obligation, we would like to maintain the process set out in this Agreement.

Yes, agree

by the Financing Entity thereunder during the term of such contract is in excess of C$5,000,000 (that, for greater certainty, is not otherwise captured in clauses (i) and (ii) above).[7]

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture.

"**Executive Officer**" has the meaning ascribed thereto in National Instrument 51-102 – *Continuous Disclosure Obligations*.[8]

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" ~~means, at any time, the Person who is, in accordance with~~has the meaning ascribed thereto in the first paragraph of this Agreement until a successor Financing

[7] **Note to Province**: Torys suggests that this concept reflects what Primary Obligations the parties agreed to be subject to the adherence conditions. Province to confirm that this is their understanding from meeting on Tuesday, November 21, particularly prongs (ii) and (iii) of the definition. OK

[8] **Note to Torys:** We have used the definition from NI 51-102 as there is only a definition of "officer" (but not "executive officer") in the OSA. **Note to Province:** Province to confirm that scope is acceptable. In NI 51-102, "Executive officer" means an individual who is (a) a chair, vice-chair or president; (a.1) a chief executive officer or chief financial officer; (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production; or (c) performing a policy-making function in respect of the issuer". If you prefer, we may use the definition of "officer" from the *Securities Act*. "Officer" means (a) a chair or vice-chair of the board of directors, a chief executive officer, a chief operating officer, a chief financial officer, a president, a vice-president, a secretary, an assistant secretary, a treasurer, an assistant treasurer and a general manager; (b) every individual who is designated as an officer under a by-law or similar authority of the registrant or issuer, and (c) every individual who performs functions similar to those normally performed by an individual referred to in clause (a) or (b).

for (iii) → more than 3yrs, up and not terminable on 3yrs notice AND payments in excess of $5 million.
- What if it's a 1yr contract w payment more than $5 million

Entity Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and the Declaration of Trust, ~~the trustee of the~~ and thereafter "Financing Entity ~~at~~Trustee" means and includes such ~~time~~Person.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"General Regulation" means O. Reg. 206/17 made under the Act.

"**Guarantee Payment Date**" has the meaning ascribed thereto in Section 2.01(a)i.

~~"Guarantor Settlement Statement" has the meaning ascribed thereto in Section 2.01(a).~~

~~"General Regulation" means O. Reg. 206/17 made under the Act.~~

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Legislature**" means the Legislature of the Province of Ontario.

"Lien" has the meaning ascribed thereto in the Trust Indenture.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(a).

"Loan Agreement" has the meaning ascribed thereto in the Trust Indenture.

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity, as amended, supplemented, restated or otherwise modified from time to time.

agreed, not necessarily a 1992

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Agreement**" means an agreement in the form of an ISDA Master Agreement as published by ISDA or any replacement or substitute or functional equivalent of such agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as amended, supplemented, restated or otherwise modified from time to time.

~~"Note" or "Notes" has the meaning ascribed thereto under the Trust Indenture.~~

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

~~"Paying Agent" has the meaning ascribed thereto in the Trust Indenture.~~

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured (a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account~~,~~ or Finance Reserve Account~~, or Supplemental Reserve Account~~; and (ii) any ~~amounts that would be remaining amounts of Available Collections required by the to be held in the Collection Account for distribution on a succeeding Payment Date pursuant to the Trust Indenture; and (iii) any obligation to pay the Trust~~obligation to pay the Financing Entity or on the ~~Trust~~Financing Entity's direction any remaining amounts ~~of Available Collections.~~in the Collection Account pursuant to the Trust Indenture.[9]

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

[9] **Torys Note:** These changes were made to conform to the most current version of the Trust Indenture, a copy of which will be circulated soon. Additionally, money in the Collection Account is required to flow through the waterfall and is not required to be held in the Collection Account otherwise. **Note to Torys:** Please confirm. The Trust Indenture states that if extra cash is available in the Collections Account, it can be held until a subsequent Payment Date.

"**Program Breach**" means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.[10]

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the ~~[~~Crown~~]~~, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province,

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise; or

(b) a court of competent jurisdiction determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured and that has the effect of the Financing Entity not in fact having sufficient funds to pay such Obligations Secured that have become due and payable.

[10] **Torys Note:** We deleted early amortization events because that is no longer a concept used in the Trust Indenture. **Note to Torys:** Early amortization events may be included in a supplemental indenture so we think retaining that reference makes sense.

OK

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Period**" has the meaning ascribed thereto in the Act.

"**Refinancing**" has the meaning ascribed to the term "refinancing" in the Act as of the date hereof, as more particularly described and given meaning in ~~in~~ the General Regulation as of the date hereof.[11]

~~"**Repayment**" has the meaning ascribed thereto in the General Regulation.~~

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Subrogation Amounts**" has the meaning ascribed thereto in subclause 2.01(a)iv(~~ii~~B).

"**Supplemental Indenture**" has the meaning ascribed in the Trust Indenture.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture.

"**Suspension Event**" has the meaning ascribed thereto in Section ~~8.02~~7.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section ~~8.01~~7.01.

~~"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.~~

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

[11] **Torys Note:** Refinancings can occur up to six months prior to the application of the refinancing proceeds to the existing obligation. The regulations provide that if the refinancing proceeds are not applied to repay the intended f unding obligation, then it is not a Refinancing. Accordingly, we have revised the definition to ensure that Refinancings do not have to be simultaneous with repayment of the existing Approved Obligation (we understand from the dealers that in most circumstances they will not be). **Note to Province**: The General Regulation specifically provides that debt can be considered a "Refinancing" when incurred within the 6 months prior to the maturity date of a funding obligation. The Act/Regulation's definition doesn't require that "Refinancings" are simultaneous with the repayment of existing Approved Obligations. Consider if further discussion is required and MOE to specifically confirm understanding of the Regulation on this point.

EXHIBIT A
FORM OF PAYMENT DEMAND

TO: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement.

Pursuant to and in accordance with section 2.01(a) of the Change of the Law Protection Agreement, the Indenture Trustee hereby demands payment from the Province in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in the Change of Law Protection Agreement.

DATED as of the [■] day of [■], [■].

BNY TRUST COMPANY OF CANADA

By:
Name:
Title:

By:
Name:
Title:

~~EXHIBIT A.1~~
~~FORM OF GUARANTOR SETTLEMENT STATEMENT~~

EXHIBIT B
~~ASSUMPTION~~SUSPENSION NOTICE

TO:	Ontario Power Generation Inc., in its capacity as Financial Services Manager
AND TO:	Fair Hydro Trust
AND TO:	Computershare Trust Company of Canada, in its capacity as trustee of Fair Hydro Trust
AND TO:	BNY Trust Company of Canada, as Indenture Trustee

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement. All references in this Suspension Notice to "Articles" or "Sections" refer to Articles or Sections of the Change of Law Protection Agreement.

The Province has a reasonable basis for concluding that an event described in Section 7.01 has occurred. Pursuant to Section 7.01, the Province hereby declares that the Limited Guarantee shall not apply in respect of any Primary Obligation incurred or amended on or after the delivery of this Suspension Notice, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied, in accordance with the terms and conditions in Article VII.

The Limited Guarantee shall hereby not apply in respect of any Primary Obligation incurred or amended on or after delivery of this Suspension Notice, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied.

This Suspension Notice is hereby delivered to the FSM, the Financing Entity and the Indenture Trustee in accordance with Section 8.02 of the Change of Law Protection Agreement.

* * * *

~~EXHIBIT C~~
~~SUSPENSION NOTICE~~DATED as of the [■] day of [■], [■].

~~**EXHIBIT D**~~
~~**TERMINATION NOTICE**~~

~~EXHIBIT E~~

~~FORM OF ASSUMPTION AGREEMENT~~

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

Document comparison by Workshare Compare on Tuesday, November 28, 2017 10:35:57 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239360/17
Description	TOR_2528-#23239360-v17-Change_of_Law_Protection_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239360/20
Description	TOR_2528-#23239360-v20-Change_of_Law_Protection_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	176
Deletions	180
Moved from	5
Moved to	5
Style change	0
Format changed	0
Total changes	366

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE[1]

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER AND AS MANAGER OF FAIR HYDRO TRUST

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

[1] Explanatory Note: Logistics of closing are under consideration by the Province.

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), Computershare Trust Company of Canada, in its capacity as trustee (the "**Financing Entity Trustee**") of Fair Hydro Trust, a trust organized under the laws of the Province of Ontario (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

numbered ?

Pursuant to an Order in Council ~~dated as of~~ 1981/2017 (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Primary Obligations that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred. This Agreement sets out the terms and conditions of such protections and assurances.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 ~~Intentionally Deleted~~Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Manager deems to be sufficient.

Each statement delivered by the Manager under Section 2.01(a)i shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Manager agrees to provide the Province with the computations and calculations used by the Manager to prepare each such statement promptly following a request therefor.[2]

1.04 Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised under, in accordance with and subject to the limitations set forth in the Trust Indenture as of the date of this Agreement.

1.05 Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 2.01 or Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province to the extent of the performance by the Province of the Primary Obligation.

[2] This language was reinserted as the guarantee statements required to be delivered by the Manager should be binding on the Province.

1.06 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee, the Financing Entity, the Financing Entity Trustee, the Manager or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.08 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.09 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.11 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one

and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 Non-Business Days

~~Whenever~~Unless otherwise provided for under the terms of any Approved Obligation, whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the Financing Entity Trustee as trustee of the Financing Entity.

1.19 Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee ~~shall (unless the Rating Agency Condition has been satisfied with respect to a demand not being made as a result of the Protection Event),~~ may deliver a written demand, substantially in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to make payments in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in this Agreement. From and after such delivery of a Payment Demand, the Province shall make the following payments in respect of the Approved Obligations (the "**Limited Guarantee**"), and the Financing Entity shall pay, and the Province shall be entitled to be paid, the Subrogation Entitlements specified below:

i. Not less than 3 Business Days prior to each day when any payment or payments are to be made in respect of one or more Approved Obligations occurring after such delivery of a Payment Demand (each such day, a "**Guarantee Payment Date**"), the Manager shall deliver a written statement setting forth the Aggregate Approved Obligations Amount, if any, in respect of the Approved Obligations that are due and payable on such Guarantee Payment Date, together with a detailed description identifying such Approved Obligations and the nature and amount of payments due and payable thereunder on the Guarantee Payment Date, the aggregate outstanding amount payable by the Financing Entity under such Approved Obligations as of the date of such written statement, and details regarding any default in performance by any party obligated thereunder.

ii. On each such Guarantee Payment Date, the Province shall deposit the Aggregate Approved Obligations Amount into the Protection Account.

iii. On each such Guarantee Payment Date, the Financing Entity and the Indenture Trustee shall ensure that the amounts on deposit in the Protection Account are applied to pay each Beneficiary to whom an amount is due and payable under an Approved Obligation on the Guarantee Payment Date the Approved Obligation Amount for such Beneficiary in respect of such Approved Obligation on such Guarantee Payment Date; provided that if the amount deposited pursuant to clause 2.01(a)ii is insufficient to pay all such Approved Obligation Amounts in full, the

amount on deposit in the Protection Account on the Guarantee Payment Date shall be applied to pay Beneficiaries in the order of priority in which such Approved Obligations are payable under the payment provisions of the Trust Indenture applicable to the making of such payments on the Guarantee Payment Date (each, a "**Beneficiary Payee**" and each payment made to a Beneficiary Payee on a Guarantee Payment Date, a "**Guarantee Payment**").

iv. On any Guarantee Payment Date on which an amount is paid by the Province pursuant to clause 2.01(a)ii, the applicable payment provisions of the Trust Indenture shall, notwithstanding the express terms of such provisions set forth in the Trust Indenture, be applied and operate on the following basis:

(A) [2]the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available under such payment provisions on such Guarantee Payment Date shall be reduced by the amount of the Guarantee Payment paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on such Guarantee Payment Date;

(B) the Province shall be paid the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available to pay the Beneficiary Payee under such payment provisions on the Guarantee Payment Date, determined without regard to the Guarantee Payment paid on such Guarantee Payment Date and the corresponding reduction of the amount owing to the Beneficiary Payee pursuant to subclause 2.01(a)iv(A) (each such amount payable to the Province being a "**Subrogation Amount**");

(C) no Beneficiary having a right to be paid an amount in respect of an Approved Obligation, and no other Person entitled under an Obligation Secured, in each case that ranks equal with or subordinate to an Approved Obligation in respect of which a Subrogation Amount is payable to the Province

[2] ~~Explanatory Note: In a particular period, the cash available from CEAs may exceed the aggregate Finance Amounts payable - for example, as a result of the "true-up" under the Act, which will determine the actual amount of cash available. The basic structure is that the Province will pay all Approved Obligation Amounts, and will be entitled to receive all cash flows available to the Beneficiary Payees. Limiting the subrogation amounts to the lesser of such available cash and the Guarantee Payments could result in leakage of the cash that the Province looks to under this arrangement.~~

under subclause 2.01(a)iv(B), shall be entitled to make any claim or assert any right in or to the amounts paid or payable to the Province under such subclause (including any right of reimbursement, contribution or indemnity) and no such Beneficiary or other Person shall have any right or interest in, to or under the Collateral or any proceeds therefrom in respect of any such Subrogation Amount;

(D) [3]on the first day when any payment or payments are to be made in respect of Obligations Secured that occurs ~~on or~~ after the date on which all amounts payable under all Approved Obligations have been paid in full, whether pursuant to Guarantee Payments or payments made pursuant to the payment provisions of the Trust Indenture or any combination thereof, the Province shall be entitled to be paid from amounts available to pay Obligations Secured on such day (and thereafter on each subsequent day when any payment or payments are to be made in respect of Obligations Secured, until paid in full), in each case in accordance with the applicable payment provisions of the Trust Indenture on such day, the following amounts ~~(each, a "**Final Subrogation Amount**")~~, in each case in the priorities specified below:

(I) as an amount ranking equally with [principal amounts of Senior Funding Obligations][4], the amount by which (1) the sum of (x) all Guarantee Payments paid by the Province up to and including such day in respect of Approved Obligations ranking equally with or prior to [principal amounts of Senior Funding Obligations], plus (y) the sum of amounts determined in respect of interest on each such Guarantee Payment from and including the date of its payment by the Province to but excluding the date a Subrogation Amount is paid to the Province

[3] ~~Explanatory Note: The Province will be entitled to receive subrogation cash flows after satisfaction of all Approved Obligations. This provision provides how that these amounts will be payable from available cash flows, based on priorities that address cash entitlements opposite non-guaranteed obligations secured (e.g., after a suspension event). Conforming changes will need to be made to the Trust Indenture once these mechanics have been settled.~~

[4] ~~Explanatory Note: Nomenclature to be conformed, once the corresponding provisions of the Trust Indenture have been settled.~~

in respect of such Guarantee Payment, as attributed to such Guarantee Payment in accordance with the Trust Indenture and calculated based on the applicable interest rate borne by the Approved Obligation to which such Guarantee Payment related[5], exceeds (2) the sum of all Subrogation Amounts paid to the Province up to and including such day (such amount, the "**Senior Final Subrogation Amount**");

(II) as an amount ranking equally with [principal amounts of Subordinated Funding Obligations], the amount by which (1) the sum of (x) all Guarantee Payments paid by the Province up to and including such day in respect of Approved Obligations ranking equally with or prior to [principal amounts of Subordinated Funding Obligations], plus (y) the sum of amounts determined in respect of interest on each such Guarantee Payment from and including the date of its payment by the Province to but excluding the date a Subrogation Amount is paid to the Province in respect of such Guarantee Payment, as attributed to such Guarantee Payment in accordance with the Trust Indenture and calculated based on the applicable interest rate borne by the Approved Obligation to which such Guarantee Payment related, exceeds (2) the sum of (x) all Subrogation Amounts paid to the Province up to and including such day, plus (y) the amount determined under (I) (such amount, the "**Subordinated Final Subrogation Amount**"); and

(III) as an amount ranking equally with [principal amounts of Junior Subordinated Obligations], the amount by which (1) the sum of (x) all Guarantee Payments paid by the Province up to and including such day in respect of Approved Obligations ranking equally with or prior to [principal amounts of

[5] ~~Explanatory Note: Nomenclature to be conformed, once the corresponding provisions of the Trust Indenture have been settled.~~

Junior Subordinated Funding Obligations~~]~~, plus (y) the sum of amounts determined in respect of interest on each such Guarantee Payment from and including the date of its payment by the Province to but excluding the date a Subrogation Amount is paid to the Province in respect of such Guarantee Payment, as attributed to such Guarantee Payment in accordance with the Trust Indenture and calculated based on the applicable interest rate borne by the Approved Obligation to which such Guarantee Payment related, exceeds (2) the sum of (x) all Subrogation Amounts paid to the Province up to and including such day, plus (y) the sum of the amounts determined under (I) plus (z) the sum of the amounts determined under (II) (such amount, the "**Junior Subordinated Final Subrogation Amount**" and, together with the Senior Final Subrogation Amount and the Subordinated Final Subrogation Amount, the "**Final Subrogation Amounts**")[3]; and

(E) no Person entitled under an Obligation Secured that ranks equal with or subordinate to a Final Subrogation Amount shall be entitled to make any claim or assert any right in or to the amounts paid or payable to the Province in respect of such Final Subrogation Amount and no such Person shall have any right or interest in, to or under the Collateral or any proceeds therefrom in respect of any such Final Subrogation Amount.

v. On any Guarantee Payment Date, the Indenture Trustee shall release and pay to the Province free and clear of any Liens any amount remaining on deposit in the Protection Account that has not been applied to pay Guarantee Payments to Beneficiary Payees on the Guarantee Payment Date in accordance with clause 2.01(a)~~iii~~iii.

[3] Separate definitions were included to facilitate inserting these amounts into Trust Indenture priority of payment provisions.

vi. In preparing any payment instructions under the Trust Indenture, the Manager shall reflect the amounts payable under Section 2.01(a).

(b) The Province shall, as a payee of Subrogation Amounts under clause 2.01(a)~~(iv)~~(B), as a payee of each Final Subrogation Amount under clause 2.01(a)(iv)(~~B~~D) and as a payee of any amounts payable under clause 2.01(a)~~(v)~~, be a "Specified Creditor" under the Trust Indenture and have the benefit of the Collateral thereunder.

(c) For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation and will be limited to the right to receive the Approved Obligation Amounts, if any, for payment to Beneficiary Payees and will be subject to the priorities and to the Province's rights to Subrogation Entitlements, set forth in Section 2.01(a).

(d) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(e) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid by the Province when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation by their terms.

(f) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee (and to the Beneficiaries, to the extent they are permitted to exercise any rights, interests, or elections under and in accordance with the Trust Indenture) under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits; provided that, for greater certainty, economic loss shall not include any amount in respect of any amount due and payable to a Beneficiary Payee under the Limited Guarantee.

2.02 Intentionally Deleted.

2.03 Absence of Set-off

Subject to applicable law, the Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Protection Account in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account" for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section **[7.03]** of the Trust Indenture on the basis that it is an Issuer Account.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Financing Entity and the Indenture Trustee shall ensure that all amounts paid by the Province into the Protection Account on a Guarantee Payment Date in respect of an Approved Obligation are applied to pay the amounts due and payable to the Beneficiaries as and to the extent provided for in Section 2.01(a). Upon a payment having been made by or on behalf of the Province into the Protection Account, the amounts so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries as provided for in Section 2.01(a) and thereby reduce the amount due and payable to such Beneficiaries in respect of the applicable Approved Obligations, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid. For greater certainty, the obligations arising in respect of an applicable Approved Obligation shall not be reduced by such payment as the Province shall become entitled to be paid related Subrogation Entitlements and the rights contemplated under Section 2.01(a) and Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety.

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations in accordance with Section 8.01.

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if (i) the Adherence Conditions applicable thereto have been satisfied at the time the Primary Obligation was incurred, or (ii) the Province, in its sole discretion, designates in writing that it is an Approved Obligation.

4.02 Adherence Conditions

(a) The following shall be the Adherence Conditions applicable in relation to each Certified Primary Obligation:

i. ~~(a)~~ the Certified Primary Obligation when incurred is an Obligation Secured under the Trust Indenture; and

ii. ~~(b)~~ OPG, as FSM, delivers ~~a certificate~~an Adherence Compliance Certificate in the form attached hereto as Exhibit B-1 signed by the Chief Financial Officer and the Treasurer of OPG, or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Indenture Trustee, on or before the incurrence of a Certified Primary Obligation (provided that delivery may not be more than 5 Business Days before the incurrence of the Certified Primary Obligation)~~, confirming that OPG has delivered to the Province a certificate signed by the Chief Financial Officer and the Treasurer of OPG, or any two Executive Officers of OPG (for clarity, such certificate is to be* provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) confirming that OPG has complied with all of its obligations to the Province and internal requirements and processes in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation*~~;[4] and

iii. ~~(c) in respect of a Certified Primary Obligation other than a Refinancing of a Primary Obligation in respect of which the Adherence Conditions had been satisfied,~~ the Province has not provided a Suspension Notice to the Indenture Trustee, OPG and the Financing Entity.

(b) The following shall be the Adherence Conditions applicable in relation to each Refinancing:

i. such Refinancing when incurred is an Obligation Secured under the Trust Indenture; and

ii. OPG, as FSM, delivers an Adherence Compliance Certificate in the form attached hereto as Exhibit B-2 signed by the Chief Financial Officer and the Treasurer of OPG, or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Indenture Trustee and the Province, on or before the incurrence of the Refinancing (provided that delivery may not be more than 5 Business Days before the incurrence of such Refinancing).[5]

[4] Given the importance of this certificate, the form of the Adherence Compliance Certificate is set out in Exhibit B-1 to this Agreement and accordingly this language has been deleted from this para (ii) and is reproduced in the form of certificate attached as Exhibit B-1. OK

[5] Given the importance of this certificate, the form of the Adherence Compliance Certificate is set out in Exhibit B-2 to this Agreement. ok

For greater certainty, (y) satisfaction of the Adherence Conditions for a Certified Primary Obligation or a Refinancing shall be deemed satisfaction of the Adherence Conditions in respect of all principal, interest and other amounts owing under the Certified Primary Obligation or the Refinancing, as applicable, as such Certified Primary Obligation or Refinancing may be amended, restated, supplemented or otherwise modified from time to time, and (z) there shall be no Adherence Conditions applicable in relation to a Primary Obligation that is not a Certified Primary Obligation or a Refinancing.

4.03 Evidence of Satisfaction

~~A closing certificate~~An Adherence Compliance Certificate delivered in accordance with Section 4.02(~~b) in connection with an incurrence of a Certified Primary Obligation~~a)ii or in accordance with Section 4.02(b)ii, as the case may be, shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same. ~~A closing certificate~~An Adherence Compliance Certificate that purports on its face to be signed by officers specified in Section 4.02(~~b~~)a)ii or Section 4.02(b)ii, as applicable, may be relied upon by any addressee without further enquiry or evidence as to the incumbency or signatures of such officers. If ~~a closing certificate~~an Adherence Compliance Certificate is not delivered in accordance with the timing requirements of Section 4.02(~~b) in respect of a Certified Primary Obligation~~a)ii or Section 4.02(b)ii, as applicable, such certificate may be delivered at a later date, and be effective as if it had been delivered in accordance with the timing requirement of Section 4.02(~~b~~)a)ii or Section 4.02(b)ii, as applicable, if at the time such certificate was required to be delivered OPG had delivered to the Province all certifications required by the Province in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation or the Refinancing.

ARTICLE V
PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive the related Subrogation Entitlements, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. The Province shall have and be entitled to enforce all rights and interests (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation to the extent of the payment by the Province in

respect of the Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province, in its capacity as a Specified Creditor, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including ~~[~~Sections **[7.04]** through **[7.11]** and **[8.13]** (Payment Priorities), Section **[7.12]** (Payments Held in Trust), Section **[8.11]** (Control by Controlling Class Creditors), Section **[8.12]** (Limitation on Suits), Section **[8.14]** (Limited Recourse), Article IX (The Indenture Trustee), including all limitations of liability thereunder, Section **[9.14]** (Communications to Specified Creditors) and Section **[16.01]** (No Petition)~~]~~; (ii) consents, requests and authorizes the Issuer and the Indenture Trustee to (x) add the Province to the register of Specified Creditors described in subsection **[13.13(b)]** of the Trust Indenture and (y) disseminate the notice details of the Province to other Specified Creditors for the purposes set out in subsection **[9.14(b)]** of the Trust Indenture, and (iii) confirms that it will execute and deliver, or cause to be executed and delivered, all such further agreements, documents and instruments in connection with this Section 5.01 as the Indenture Trustee may request from time to time for the purpose of giving effect to the terms of this Section ~~5.01.~~5.01.

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary to whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the

extent of the priorities established in relation to the Approved Obligation under the Trust Indenture in the manner and to the extent contemplated in Section [**7.10**~~(d)~~] of the Trust Indenture.

5.03 Intentionally Deleted

5.04 Representations and Warranties

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
INDENTURE TRUSTEE MATTERS

6.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

6.02 Not Responsible for Recitals

The recitals contained herein will be taken as the statements of the Province, the Financing Entity and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency of this Agreement.

6.03 Representations and Covenants of the Indenture Trustee[6]

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada;

(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement;

(c) this Agreement has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and

(d) ~~(b)~~ the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada. If, notwithstanding the provisions of this subsection 6.03(d), the Indenture Trustee ceases to be so authorized to carry on business, the validity and enforceability of this Agreement shall not be affected in any manner whatsoever by reason only of such event.

ARTICLE VII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

7.01 Suspension Notice

Upon:

(a) a Program Breach;

(b) a default in the performance, or breach, of any covenants of OPG, as FSM, or OPG, in its corporate capacity, in each case to the Province in connection with its obligations to the Province pursuant to internal requirements and processes in connection with the ~~provision~~adherence of the Limited Guarantee~~, which continues for thirty (30) days after written notice by the Province to OPG of such default or breach~~ to the Certified Primary Obligations and the expiration of any applicable cure period;

(c) a representation or warranty made by OPG or a certification made by one or more officers of OPG, in each case whether as FSM or in its corporate capacity, to the Province in connection with its obligations to the Province pursuant to internal requirements and processes in connection with the ~~provision~~adherence of the Limited Guarantee to the Certified Primary Obligations, proves to be incorrect in

[6] Explanatory Note: ~~The Province is content to receive the same~~Indenture Trustee representations ~~as are provided~~have been conformed to the MTI and are subject to review and sign off by the Indenture Trustee ~~should be under the Trust Indenture. Please conform.~~

any material respect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or

(d) the FSM no longer being the Manager or actions having been taken by or on behalf of the Indenture Trustee to remove the FSM as the Manager,

the Province may declare that the Limited Guarantee under this Agreement shall not apply to any Primary Obligations incurred on or after such declaration, other than any Refinancing of ~~a Primary~~an Approved Obligation in respect of which the Adherence Conditions had previously been satisfied ~~(provided that the~~or if such Refinancing is otherwise an Approved Obligation~~)~~, by delivering a written notice in the form of Exhibit ~~B~~C (a "**Suspension Notice**") to the Indenture Trustee, the FSM and the Financing Entity.[7]

~~The Limited Guarantee shall apply to any Certified Primary Obligation incurred after a Suspension Event on the basis that it is a Refinancing (provided that such Refinancing is an Approved Obligation) only if the FSM certifies to the Province in writing prior to the incurrence that the proceeds of such incurrence* will be used solely for the *purposes of repaying one or more Certified Primary Obligations incurred prior to the Suspension Event and to which the Limited Guarantee adhered as of the time the Suspension Event occurred, and the delivery of such written certification by the FSM to the Province shall be determinative for the purposes of concluding that such incurrence is a Refinancing for the purposes of Sections 7.01, 7.02 and 7.03.~~

7.02 Suspension

If a Suspension Notice has been provided under Section 7.01 (the provision of such notice being a "**Suspension Event**"), the Limited Guarantee shall not apply in respect of: (i) any Primary Obligation incurred or ~~amended~~(ii) any amendment of any Primary Obligation that results in an increase to the principal amount of such Primary Obligation, in each case, on or after the time such Suspension Notice is delivered, other than any Refinancing of ~~a Primary~~an Approved Obligation in respect of which the Adherence Conditions had previously been satisfied ~~(provided that the~~or if such Refinancing is otherwise an Approved Obligation~~)~~.

7.03 No Impact on Adherence

For greater certainty, the occurrence of a Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event or in respect of any Refinancing of ~~a Primary~~an Approved Obligation in respect of which the Adherence Conditions had previously been satisfied ~~(provided that the~~or if such Refinancing is otherwise an Approved Obligation~~)~~.

[7] The paragraph that was deleted from Section 7.01 was modified slightly and moved to the form of the Adherence Compliance Certificate set out in Exhibit B-2 as the Adherence Condition for the Refinancing so that it is clear what conditions have to be satisfied for a Refinancing to be an Approved Obligation. As discussed in our meeting with the principals and in response to the DBRS comments, debt issued on a refinancing of protected debt should continue to be protected debt.

ARTICLE VIII
MISCELLANEOUS

8.01 Term of Agreement

This Agreement will continue until the date that no amount is or may become due and payable by the Province under the Limited Guarantee.

8.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust

700 University Avenue

Toronto, Ontario M5G 1X6
Attention: General Counsel
Fax: (416) 592-4189

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: Manager, Corporate Trust
Fax: (416) 981-9777
Email: corporatetrust.toronto@computershare.com

(b) if to the FSM:

Ontario Power Generation Inc.

700 University Avenue

Toronto, Ontario M5G 1X6

Attention: General Counsel
Fax: (416) 592-4189

(c) if to the Province:

Ministry of Finance

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 8.02.

8.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 8.03 shall be null and void.

8.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

8.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

8.07 Notice to Rating Agencies

OPG, as FSM, shall deliver prompt written notice to the Rating Agencies ~~on~~of the occurrence of (i) a Protection Event; (ii) receipt of a Suspension Notice delivered by the Province pursuant to Section 7.01; and (iii) an assignment of this Agreement by any party pursuant to Section 8.03.

8.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement. Beneficiaries derive their benefits hereunder through the Indenture Trustee and shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture.

8.09 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM AND AS MANAGER

By: _____
Name:
Title:
By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA, IN ITS CAPACITY AS TRUSTEE OF FAIR HYDRO TRUST, AS ISSUER, BY ONTARIO POWER GENERATION INC., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS MANAGER

By: _____
Name:
Title:
By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration of a funding obligation" in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture.

"**Adherence Compliance Certificate**" means a certificate in the form attached hereto as Exhibit B-1 or Exhibit B-2, as applicable, delivered by the FSM in accordance with Section 4.02(a)ii or Section 4.02(b)ii.

"**Adherence Conditions**", means, in respect of a Certified Primary Obligation, the conditions set out in Section 4.02.

"**Aggregate Approved Obligations Amount**" means, in respect of a Guarantee Payment Date, the aggregate of the Approved Obligation Amounts for such Guarantee Payment Date.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Approved Obligation Amount**" means, for a Beneficiary in respect of an Approved Obligation under which an amount is due and payable on a Guarantee Payment Date:

(a) if no Acceleration has occurred in respect of any Obligation Secured on or before the Guarantee Payment Date, the amount due and payable to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation (for greater certainty, determined on the assumption that there are adequate amounts available under the applicable payment provisions of the Trust Indenture to pay in full all amounts referred to in such payment provisions that are due and payable on the Guarantee Payment Date); and

(b) if an Acceleration has occurred in respect of any Obligations Secured on or before the Guarantee Payment Date, the amount that would be available to be paid to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation under the applicable payment provisions of the Trust Indenture, determined on the assumption that the amount available for allocation to Specified Creditors in accordance with such applicable payment provisions of the Trust Indenture in respect of each relevant month during each Reference Period is equal to the estimated Finance Amount determined in respect of such Reference Period for purposes of section 15(1) of the Act (in effect on the date hereof), including section 6.1 of the General Regulation (in effect on the date hereof), divided by the number of months in such Reference Period.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Beneficiary Payee**" has the meaning ascribed thereto in Section 2.01(a)iii.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Certified Primary Obligations**" means Primary Obligations that are: (i) incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest ~~or to repay payment obligations that were incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest,~~[7], in which case the Certified Primary Obligation therefor shall be the Funding Obligation Agreement applicable to such Funding Obligation and not each individual borrowing or utilization thereunder, (ii) incurred by or on behalf of the Financing Entity upon the Financing Entity entering into a Derivative Agreement, in which case the Certified Primary Obligation therefor shall be the Master Agreement applicable to such Derivative Agreement and not each individual trade confirmation, or (iii) incurred by or on behalf of the Financing Entity upon entering into a contract that has a term of more than three (3) years which is not terminable by the Financing Entity giving three (3) years' notice or less and aggregate minimum payments by the Financing Entity thereunder during the term of such contract is in excess of C$5,000,000 (that, for greater certainty, is not otherwise captured in clauses (i) and (ii) above); provided that "**Certified Primary Obligations**" shall not include any Refinancing.

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture.

[7] ~~Explanatory Note: Province requires a Process Certificate for each monthly draw.~~

"**Executive Officer**" has the meaning ascribed to the term "executive officer" in National Instrument 51-102 – *Continuous Disclosure Obligations* of the Canadian Securities Administrators.

"**Final Subrogation Amount**" has the meaning ascribed thereto in subclause 2.01(a)iv(D).

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" has the meaning ascribed thereto in the first paragraph of this Agreement until a successor Financing Entity Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and the Declaration of Trust, and thereafter "Financing Entity Trustee" means and includes such Person.

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Guarantee Payment**" has the meaning ascribed thereto in Section 2.01(a)iii.

"**Guarantee Payment Date**" has the meaning ascribed thereto in Section 2.01(a)i.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Issuer Funding Obligation**" has the meaning ascribed thereto in the Trust Indenture.

"**Junior Subordinated Final Subrogation Amount**" has the meaning ascribed thereto in subclause 2.01(a)iv(D).

"**Legislature**" means the Legislature of the Province of Ontario.

"**Lien**" has the meaning ascribed thereto in the Trust Indenture.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(a).

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity, as amended, supplemented, restated or otherwise modified from time to time.

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Agreement**" means an agreement in the form of ~~an ISDA~~a Master Agreement as published by ISDA or any replacement or substitute or functional equivalent of such agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as amended, supplemented, restated or otherwise modified from time to time.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, unlimited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured (a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account or Finance Reserve Account ~~or required to be held in~~

~~the Collection Account after the application of amounts under the applicable payment provision of the Trust Indenture on an applicable payment date~~[8]; and (ii) any obligation to pay the Financing Entity or on the Financing Entity's direction any remaining amounts in the Collection Account pursuant to the Trust Indenture.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Program Breach**" means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, early amortization event[98], termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province,

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise; or

[8] ~~Explanatory Note: The Trust Indenture states that if extra cash is available in the Collections Account, it can be held until a subsequent Payment Date.~~

[98] Explanatory Note: Early amortization events may be included in a supplemental indenture, so retaining that concept makes sense.

(b) a court of competent jurisdiction determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured and that has the effect of the Financing Entity not in fact having sufficient funds to pay such Obligations Secured that have become due and payable.

For clarity, for purposes of the definition of "Protection Event", the occurrence of an event described in any of clauses (i) to (v) of paragraph (a) or a determination by a court of competent jurisdiction described in paragraph (b) which (x) results, or could reasonably be expected to result, in a rating downgrade or withdrawal of a rating by a Rating Agency, or (y) results in a Rating Agency publicly announcing that it has placed under surveillance or review, with possible negative implications, its rating of any Approved Obligation in effect prior to the occurrence of such event or court determination shall be sufficient to establish the required "materially and adversely" threshold.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture, except that the reference to "Issuer Funding Obligation" in the definition of "Rating Agency" in the Trust Indenture shall be replaced with a reference to an Issuer Funding Obligation that is an Approved Obligation.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture, except that the reference to "Issuer Funding Obligation" in the definition of "Rating Agency Condition" in the Trust Indenture shall be replaced with a reference to an Issuer Funding Obligation that is an Approved Obligation.

"**Reference Period**" has the meaning ascribed thereto in the Act.

"**Refinancing**"~~[109]~~[109] has the meaning ascribed to the term "refinancing" in the Act as of the date hereof, as more particularly described and given meaning in the General Regulation as of the date hereof.~~[110]~~[110]

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Senior Final Subrogation Amount**" has the meaning ascribed thereto in subclause 2.01(a)iv(D).

~~[109]~~[109] Explanatory Note: This relates to a refinancing of an existing debt obligation; not an undrawn commitment to fund.

~~[110]~~[110] Explanatory Note: The General Regulation provides that debt can be considered a "Refinancing" when incurred within the 6 months prior to the maturity date of a funding obligation. The Act/Regulation's definition doesn't require that "Refinancings" be simultaneous with the repayment of existing Approved Obligations. We have added a certificate mechanic in 7.01 by which there can be certainty when an obligation is incurred that if the obligation is intended to be a refinancing, it will be covered by the guarantee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Subordinated Final Subrogation Amount**" has the meaning ascribed thereto in subclause 2.01(a)iv(D).

"**Subrogation Entitlement**" means each Subrogation Amount and each Final Subrogation Amount.

"**Subrogation Amount**" has the meaning ascribed thereto in subclause 2.01(a)iv(B).

"**Supplemental Indenture**" has the meaning ascribed in the Trust Indenture.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture.

"**Suspension Event**" has the meaning ascribed thereto in Section 7.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 7.01.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

TO: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement.

Pursuant to and in accordance with section 2.01(a) of the Change of the Law Protection Agreement, the Indenture Trustee hereby demands payment from the Province in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in the Change of Law Protection Agreement.

DATED as of the [■] day of [■], [■].

BNY TRUST COMPANY OF CANADA

By:
Name:
Title:

By:
Name:
Title:

EXHIBIT B-1
FORM OF ADHERENCE COMPLIANCE CERTIFICATE UNDER SECTION 4.02(a)

TO: **BNY TRUST COMPANY OF CANADA**, in its capacity as Indenture Trustee (the "**Indenture Trustee**") under the Master Trust Indenture dated as of December ●, 2017 between Fair Hydro Trust and the Indenture Trustee (the "**Master Trust Indenture**")

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province of Ontario, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust, Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement.

Each of the undersigned, being the ● and ● of OPG acting in its capacity as FSM and holding the offices set forth under their names and signatures below, pursuant to and accordance with section 4.02(a)ii of the Change of Law Protection Agreement, hereby certifies for and on behalf of OPG, in its capacity as Financial Services Manager, and not in such officer's personal capacity and intending that this certificate may be relied on by the addressees hereof without independent inquiry, that:

1. I have read and understand the provisions of the Change of Law Protection Agreement, the Master Trust Indenture and all other documents and materials necessary to enable me to deliver this certificate.
2. OPG has delivered to the Province a certificate signed by the Chief Financial Officer and the Treasurer of OPG, or any two Executive Officers of OPG (for clarity, such certificate was* provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) confirming that OPG has complied with all of its obligations to the Province and internal requirements and processes in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation*.

DATED as of the [■] day of [■], [■].

Name: [11]
Office:

Name:
Office:

[11] This certificate must be signed by two officers of OPG being either (i) the Chief Financial Officer and the Treasurer, or (ii) any two Executive Officers (as defined in the Change of Law Protection Agreement) of OPG.

EXHIBIT B-2
FORM OF ADHERENCE COMPLIANCE CERTIFICATE UNDER SECTION 4.02(b)

TO: **BNY TRUST COMPANY OF CANADA**, in its capacity as Indenture Trustee (the "**Indenture Trustee**") under the Master Trust Indenture dated as of December ●, 2017 between Fair Hydro Trust and the Indenture Trustee (the "**Master Trust Indenture**")

AND TO: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust, Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement.

Each of the undersigned, being the ● and ● of OPG acting in its capacity as FSM and holding the offices set forth under their names and signatures below, pursuant to and accordance with section 4.02(b)ii of the Change of Law Protection Agreement, hereby certifies for and on behalf of OPG, in its capacity as Financial Services Manager, and not in such officer's personal capacity and intending that this certificate may be relied on by the addressees hereof without independent inquiry, that:

1. I have read and understand the provisions of the Change of Law Protection Agreement, the Master Trust Indenture and all other documents and materials necessary to enable me to deliver this certificate.
2. The proceeds of the Refinancing* will be used solely for the *purpose of repaying one or more Certified Primary Obligations in respect of which the Adherence Conditions in Section 4.02(a) of the Change of Law Protection Agreement had been satisfied or one or more Refinancings in respect of which the Adherence Conditions in section 4.02(b) of the Change of Law Protection Agreement had been satisfied.

DATED as of the [■] day of [■], [■].

Name: [12]	Name:
Office:	Office:

[12] This certificate must be signed by two officers of OPG being either (i) the Chief Financial Officer and the Treasurer, or (ii) any two Executive Officers (as defined in the Change of Law Protection Agreement) of OPG.

EXHIBIT C
SUSPENSION NOTICE

TO: Ontario Power Generation Inc., in its capacity as Financial Services Manager

AND TO: Fair Hydro Trust

AND TO: Computershare Trust Company of Canada, in its capacity as trustee of Fair Hydro Trust

BNY Trust Company of Canada, as Indenture Trustee

AND TO:

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement. All references in this Suspension Notice to "Articles" or "Sections" refer to Articles or Sections of the Change of Law Protection Agreement.

The Province has a reasonable basis for concluding that an event described in clauses (a) to (d) of Section 7.01 has occurred. Pursuant to Section ~~7.01,~~7.01, the Province hereby declares that the Limited Guarantee shall not apply in respect of any Primary Obligation incurred or amended on or after the delivery of this Suspension Notice, other than any Refinancing~~ of a Primary Obligation~~ in respect of which the Adherence Conditions had previously been satisfied, in accordance with the terms and conditions in Article VII.

The Limited Guarantee shall hereby not apply in respect of (i) any Primary Obligation incurred or ~~amended~~(ii) any amendment of any Primary Obligation that results in an increase to the principal amount of such Primary Obligation, in each case, on or after delivery of this Suspension Notice, other than any Refinancing of ~~a Primary~~an Approved Obligation in respect of which the Adherence Conditions had previously been satisfied of if such Refinancing is otherwise an Approved Obligation.

This Suspension Notice is hereby delivered to the FSM, the Financing Entity and the Indenture Trustee in accordance with Section 8.02 of the Change of Law Protection Agreement.

* * * *

DATED as of the [■] day of [■], [■].

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT

Dated as of [■], 2017

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**"), is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of ■, 2017, the FSM [established] the Financing Entity as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended.

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation, maintaining information related to the Program Agreement and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of OPG, and of the Province in accordance with the Act and the OIC, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity or the Financing Entity Trustee

For greater certainty, each reference to the Financing Entity or to the Financing Entity Trustee shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.01 Change of Law Process Agreement Referred to in the Change of Law Protection Agreement

This Agreement is the "Change of Law Process Agreement" referred to in the Change of Law Protection Agreement.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF OPG

2.01 Deliveries to the Province

(a) Not less than 15 Business Days prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province a copy of

condition precedent to effectiveness of agt

F.E will be covered by PILs

tax

the initial Financing Plan. Thereafter, OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 15 Business Days prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province an analysis and assessment of the tax position of the Financing Entity. Thereafter, OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of such analysis and assessment.

change addition supplement to Transaction Document

(c) Not less than ■ Business Days prior to any proposed change, addition or supplement to a Transaction Document becoming effective or otherwise being used, OPG shall deliver to the Province a copy of such proposed change, addition or supplement to the Transaction Document.

deliver closing docs after transaction

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document).

- ad hoc reports

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

- tax.

(f) OPG shall, as the FSM, cause the Financing Entity to deliver to the Province copies of the Financing Entity's annual tax returns and any related tax assessment not more than ■ Business Days after such a tax return or tax assessment is required to be filed under applicable law.[1]

2.02 Covenants

as manager

(a) OPG shall, as the FSM, cause the Financing Entity to:

(i) punctually perform and observe all of its obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

negative covenant

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

- relevant to the Province's assumption right

[1] Note: The tax documents to be provided to the Province are under consideration.

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

(v) not, without the prior written consent of the Province:

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement;

- fundamental changes

(B) consent to the resignation of (1) the Administrative Agent under the Administrative Services Agreement; or (2) the Manager under the Management Agreement;

(C) consolidate or merge with or into any other Person;

(D) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired;

(E) permit any Lien (other than the Security Interest) to be created on or extend to or otherwise arise upon or burden the Collateral or any part thereof or any interest therein or the proceeds thereof;

(F) sell, transfer, exchange or otherwise dispose of any of the Collateral, other than as expressly permitted by the Trust Indenture;

(G) release any security or guarantee in respect of the Collateral other than as expressly permitted by the Trust Indenture; or

(H) voluntarily dissolve or liquidate.

(b) OPG shall:

(i) comply, and as the FSM cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

- because of assumption right, will step in on everything * →

(ii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; - should be ∅

*

(iii) after the occurrence of any Protection Event (or any event that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension

right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under this Agreement would be accelerated, delayed or otherwise affected; and

(iv) ensure that any disclosure (including any Disclosure Document) that refers to or describes the terms, effect or adherence of or to this Agreement will be subject to the prior review of the Province and such disclosure will not be made (and any such Disclosure Document shall not be used) without the prior written consent of the Province.

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are also executive officers of OPG) and addressed to the Province, not less than ■ Business Days prior to the incurrence or any amendment of a Primary Obligation, setting out the following with respect to the Primary Obligation:

(a) the material terms of the Funding Obligations pertaining to principal amount, pricing and third party fees;[2]

(b) if an existing Primary Obligation is proposed to be amended, material details respecting such amendment and the anticipated effect of the amendment on or in relation to the affected terms and conditions of the Primary Obligation, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement that: (i) the Primary Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reviewed Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reviewed Documentation;

[2] Note: Level of detail required by the Province is under consideration. Province to consider whether it would like further details regarding Principal Obligations, Redemption Obligations, Interest Obligations, Hedging Obligations, Third Party Expense Obligations or Other Funding Obligations. In desirable, particulars regarding Hedging Obligations and the market in which notes are issued to be considered.

(d) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(e) if the Primary Obligation is a [borrowing], confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under Approved Obligations, do not and will not exceed the Protection Agreement Maximum.

3.02 Acknowledgment

The parties acknowledge that the Process Certificate is the certificate referred to in Subsection 4.02(d)(ii) of the Change of Law Protection Agreement.

3.03 Meaning of "Reviewed Documentation"

For the purposes of Subsection 3.01(c), the term "Reviewed Documentation" shall mean each Transaction Document (including any change, addition or ~~supplement~~ thereto) that, at the relevant time:

(a) has been provided to the Province in accordance with Subsection 2.01(b); and

(b) has been accepted by the Province, as confirmed by way of a written notice of acceptance from the Province delivered to OPG.

3.04 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reviewed Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reviewed Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to Section 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation;

(b) with respect to the Reviewed Documentation referred to in clauses (v) to (ix) of the definition of "Transaction Documents", and, where applicable, clauses (x) and (xi) of the definition of "Transaction Documents" as the context requires, that the variable terms to be set forth in the proposed documents are as reasonably contemplated in the Reviewed Documentation, as to the type, scope and extent of

the Primary Obligations arising thereunder and as to the timing, conditions and circumstances in which payment obligations under such Primary Obligations may arise, but without regard to the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reviewed Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(c) with respect to the Reviewed Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed disclosure document complies in all material respects with all securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

(a) The initial Protection Agreement Maximum shall be determined by the Province prior to the initial issuance of the first Funding Obligation. The initial Protection Agreement Maximum will be confirmed by the Province by notice in writing to OPG, as the FSM.

(b) Not less than ■ Business Days prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the applicable Financing Plan (the "**Initial Forecast**"). In determining the initial Protection Agreement Maximum, the Province may have regard to (but not be bound by) the Initial Forecast.

(c) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**").

① max
principal amount
that may be issued
+ outstanding from time
to time.
- plus interest thereon

(d) Upon receiving an updated Forecast, the Province shall determine whether or not the Protection Agreement Maximum will be revised. In determining whether the Protection Agreement Maximum will be revised, the Province may have regard to (but not be bound by) such updated Forecast. Any determination by the Province to revise the Protection Agreement Maximum will be confirmed by setting out a new Protection Agreement Maximum in a written notice from the Province to the FSM and the Indenture Trustee, the delivery of which will be conclusive evidence that such new Protection Agreement Maximum will apply until it may be further so revised.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, shall cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto and to own its property and carry on its business as currently conducted.

(c) OPG has been validly appointed, and has irremovably accepted such appointment, as the FSM in accordance with the Act. OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation of OPG enforceable against OPG in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG (including in its capacity as the FSM) or the

Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or the Financing Entity or in the ability of OPG or the Financing Entity to perform their respective obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or the Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

ARTICLE VI
ELECTION TO ASSUME APPROVED OBLIGATIONS

6.01 Election by the Province

At any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) to elect to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor. To make such election, the Province shall duly

complete and deliver to OPG a notice in the form of Exhibit A (an "**Election Notice**"), which in turn will set forth the form of agreement (an "**Assumption Agreement**") setting forth the material terms and conditions under which the Province would assume and become obligated under each of the Obligations Secured. The Election Notice shall, among other things, specify the date on which the Province proposes to assume the Obligations Secured, which date shall be no earlier than 20 Business Days following delivery of the Election Notice to OPG (the "**Proposed Assumption Date**").

6.02 Details regarding Obligations Secured – in order to evaluate whether Prov should step in

Promptly following the delivery of the Election Notice to OPG, OPG shall provide the following information and documentation to the Province:

– can every party pre-agree that Prov can step in –

(a) a summary of the amounts that will be owing under all Obligations Secured as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under the Obligations Secured;

(b) a summary of the rights arising under the Obligations Secured that permit the Financing Entity to assign the Obligations Secured to the Province, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;

(c) current versions of all documentation under which the Obligations Secured arise;

(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured by the Province;

(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement; and

(f) a draft version of the Assumption Agreement prepared in relation to each Obligation Secured, prepared in accordance with and having regard to the requirements of the relevant agreement(s) under which the Obligation Secured arises.

6.03 Settlement of Terms

Within ■ Business Days following receipt by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether

or not it will proceed with the assignment and assumption of the Obligations Secured and, if it will be proceeding with the assignment and assumption, the date on which the Province intends that assignment and assumption will be effected, which may not be earlier than the Proposed Assumption Date. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section 6.01 of the Change of Law Protection Agreement, which will specify such date as the "Assumption Closing Date" for the purposes thereof.

6.04 Cooperation to Implement the Assignment and Assumption

OPG shall cooperate with the Province and, as FSM, will cause the Financing Entity to cooperate to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.[3]

6.05 Terms of Obligations Secured

In order to permit the Province to assume the Obligations Secured in the circumstances contemplated herein, OPG will, and as FSM, will cause the Financing Entity to, ensure that all Obligations Secured permit such an assignment to and assumption by the Province substantially in accordance with the terms and on the basis contemplated in the Assumption Agreement, without any penalty or make-whole payment, or any requirement for further consent, approval or agreement, or alternatively, in the case of any Obligations Secured entered into by or on behalf of the Financing Entity for the provision of on-going services to the Financing Entity, permitting the satisfaction and termination of such Obligations Secured on or prior to the effective time of such assumption without any acceleration of future fees, profits or other like amounts.[4]

ARTICLE VII
BREACH EVENTS

7.01 Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, of any covenants of OPG under this Agreement (including in respect of its role as FSM under any Program Agreement;

(b) any representation or warrant made by OPG in this Agreement, or any certification made in a Process Certificate, proves to be incorrect on the date made; or

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[3] Note: Further details regarding obtaining of third party consents and rating agency approvals to be considered.

[4] Note: The Trust Indenture will need to include a clause providing that the obligations of the Financing Entity to the Indenture Trustee and the Noteholders may be assigned to the Province in accordance with an assumption agreement, substantially in the form set out in an exhibit to the Trust Indenture.

(c) OPG is no longer the FSM, the Administrative Agent or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM, the Administrative Agent or the Manager.

7.02 Notice on Breach Event

If any Breach Event shall have occurred and not been waived in writing by the Province, the Province shall have the right, upon written notice to OPG at its option, and in addition to and not in substitution for any other remedies available hereunder at law or equity, to provide notice to the Indenture Trustee that a Breach Event has occurred and, in accordance with the Change of Law Protection Agreement, that the Limited Guarantee does not and will not apply to any Primary Obligations that may thereafter be incurred or amended by or on behalf of the Financing Entity.[5]

ARTICLE VIII
MISCELLANEOUS

8.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

8.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]

[5] NTD: Carve-out for re-financings of Approved Obligations already in existence is under consideration.

Email: [■]

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 8.02.

8.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 8.03 shall be null and void.

8.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

↑ Auditor-General accepts

8.06 Confidentiality

[Note: To be considered based on what would be customary and appropriate for similar types of arrangements and would be acceptable to the Province.]

8.07 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

[FINANCING ENTITY TRUSTEE], IN ITS CAPACITY AS FINANCING ENTITY TRUSTEE FOR [FINANCING ENTITY]

By: _____
Name:
Title:

[INDENTURE TRUSTEE], AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

["**Administrative Agent**" means OPG, in its capacity as administrative agent of the Financing Entity under the Administrative Services Agreement.]

["**Administrative Services Agreement**" means the administrative services agreement dated [■], 2017 between the Financing Entity and the Administrative Agent concerning the reimbursement of certain costs incurred by the Administrative Agent in connection with the administration of the Financing Entity.][6]

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Assumption Agreement**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" has the meaning ascribed thereto in Section 7.01.

"**Business Day**" means (a) any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the Financing Entity, the FSM and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

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[6] Note: To be confirmed if required.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Election Notice**" has the meaning ascribed thereto in Section 6.01.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation [as of the date of this Agreement].

"**Financing Entity**" means [■], a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**Financing Plan**" has the meaning ascribed thereto in the Act.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(b).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in Section 4.01(b).

"**Initial Forecast Period**" has the meaning ascribed thereto in Section 4.01(b).

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Lien**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

["**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity.]

["**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.][7]

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, and acknowledged and accepted by the Indenture Trustee.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

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[7]Note: To be confirmed if required. Also note that the draft Trust Indenture refers to OPG as the "manager" (rather than "Financial Services Manager" as under the Act). To be reconciled.

"**Proposed Assumption Date**" has the meaning ascribed thereto in Section 6.01.

"**Protection Agreement Maximum**" means the dollar amount determined by the Province and of which OPG is provided written notice in accordance with Article IV.

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Repayment**" has the meaning ascribed thereto in the General Regulation.

"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Supplemental Reserve Account**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement, the Administrative Services Agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement between the Financing Entity and the IESO; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected,

including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF ELECTION NOTICE

(form of Assumption Agreement to be attached, once settled)

Blakes comments

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.[, AS FINANCIAL SERVICES MANAGER][1]

CHANGE OF LAW PROCESS AGREEMENT

Dated as of [■], 2017

- consider importance - what is OPG's std of care as FSM - its a statutory obligation but full indemnity for role - however it shouldn't just be an agent of FE but as FSM.

- needs further explanation

[1] Province to consider whether liability of OPG should be primary, or subject to the inherent limitations (e.g., duty/standard of care) implied by its role as FSM. Primary responsibility for the 'behind the scenes obligations' contemplated in this Process Agreement would be more meaningful to the extent that potential corporate liability promotes compliance.

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**")[, as Financial Services Manager for the Financing Entity in accordance with the Act,] is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.[12]

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended.

Prior to entering into this Agreement, [the FSM] provided the Province with copies of certain of the Transaction Documents, and the Province has confirmed by a notice delivered to [the FSM] that the reviewed forms (as further described in such notice) shall be Reviewed Documentation for the purposes of this Agreement.

This Agreement sets out the obligations [the FSM] has agreed to perform and assurances [the FSM] has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation, maintaining information related to the Program Agreements and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of [the FSM], and of the Province in accordance with the Act, have been done.

[12] Note: This draft only addresses the first Financing Entity. If additional financing entities are established, revisions to this Agreement may be made at that time, in context. Any additional financing entities contemplated should be as contemplated in the Financing Plan.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor, [except in each case as referenced in the definition of Protection Event];

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this

Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the [FSM, as agent of the][3] Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

[3] Validity considerations if FSM effects primary agreements that in turn define the scope of its authority.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.01 Change of Law Process Agreement Referred to in the Change of Law Protection Agreement

This Agreement is the "Change of Law Process Agreement" referred to in the Change of Law Protection Agreement.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF THE FSM

2.01 Deliveries to the Province[4]

(a) Not less than [15 Business Days] prior to the initial issuance of any Funding Obligation by the Financing Entity, the FSM shall deliver to the Province a copy of the initial Financing Plan. Thereafter, the FSM shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 10 Business Days prior to (i) any proposed change or supplement to a previously provided Transaction Document becoming effective or otherwise being used or (ii) any additional or replacement Transaction Document becoming effective or otherwise being used, the FSM shall deliver to the Province a copy of such proposed change or, supplement to the Transaction Document and any such additional or replacement Transaction Document.

(c) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, the FSM shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(d) Promptly upon request, the FSM shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) The FSM shall [use commercially reasonable efforts to][5] cause the Financing Entity to:

(i) punctually perform and observe all of its obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

[4] Province to consider OPG's proposed deletion of fallback (non-PILs) access to tax information for the Trust.
[5] Province to consider lower standard for compliance proposed by OPG, particularly (ii) to (v).

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

(v) not:

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; ~~or~~

(B) consent to the resignation of the Manager under the Management Agreement;

(C) consolidate or merge with or into any other Person;

(D) ~~(B)~~ permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired;

(E) ~~permit any Lien (other than the Security Interest) to be created on or extend to or otherwise arise upon or burden the Collateral or any part thereof or any interest therein or the proceeds thereof;~~

(F) sell, transfer, exchange or otherwise dispose of any of the Collateral, other than as expressly permitted by the Trust Indenture;

(G) release any security or guarantee in respect of the Collateral other than as expressly permitted by the Trust Indenture; ~~or~~

(H) voluntarily dissolve or liquidate.

(b) The [FSM shall use commercially reasonable efforts to][6]:

(i) comply, and to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto; ~~and~~

(ii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation;

(iii) ~~(ii) to,~~ after the occurrence of any Protection Event (or any event that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any

[6] Province to consider lower standard for compliance proposed by OPG.

other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected; and

(iv) ensure that any disclosure (including any Disclosure Document, press release or other written communication intended for dissemination to third parties) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement will be subject to the prior review of the Province and such disclosure will not be made (and any such Disclosure Document shall not be used and any such press release or other written communication shall not be issued) without the prior written consent of the Province, in each case unless such disclosure is substantially the same as a disclosure previously made and for which the Province had previously provided its written consent under this Subsection 2.02(b)(iv).

(c) [Nothing in this Agreement shall limit the obligations of the Province under the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 and to the extent of any conflict between this Agreement and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify the FSM or the Financing Entity, the latter shall prevail. For clarity, OPG's obligations under this Agreement are solely in its capacity as the FSM.][7]

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate

The FSM shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of the FSM (or their respective designees, provided that such designees are also executive officers of the FSM) and addressed to the Province, on the earlier of (i) one Business Day prior to the incurrence or any amendment of a Primary Obligation, and (ii) on the Business Day on which the financial terms of such Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), setting out the following with respect to such Primary Obligation:

(a) the material terms of the Primary Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, the notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

[7] Province to consider interaction of this Agreement with the OPG indemnity. To the extent that OPG is indemnified, the impact of OPG non-compliance is significantly reduced to the extent that liability considerations are relevant to OPG.

(b) if an existing Primary Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement to the effect that: (i) the Primary Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reviewed Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reviewed Documentation;

(d) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(e) confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the Protection Agreement Maximum; [for clarity, Repayments shall not include any payments or outstanding amounts due or becoming due in the future in respect of any Primary Obligations arising under or in connection with a Derivative Agreement].[8]

3.02 Acknowledgment

The parties acknowledge that the Process Certificate is the certificate referred to in Subsection 4.02(d) of the Change of Law Protection Agreement.

3.03 Meaning of "Reviewed Documentation"

For the purposes of Subsection 3.01(c), the term "Reviewed Documentation" shall mean each Transaction Document (including any change, addition or supplement thereto) that, at the relevant time:

(a) is a Transaction Document provided to the Province prior to the making of this Agreement and in respect of which the notice contemplated in the fifth recital to this Agreement has been delivered by the Province to the FSM; and

[8] This requires further consideration. This could cut both ways to the extent non-CAD deals are done and the FX is hedged.

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has been accepted by the Province, as confirmed by way of a written notice of acceptance from the Province delivered to the FSM.

3.04 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reviewed Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reviewed Documentation that could result in a change in ~~the material terms or conditions~~ applicable to the applicable Primary Obligation ~~[~~that would be adverse to the Issuer~~]~~[9], including regarding the timing of or circumstances ~~under which related~~ payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to Section 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reviewed Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reviewed Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; ~~and~~

suggest don't accept a/P

(b) with respect to the Reviewed Documentation referred to in clauses (v) to (ix) of the definition of "Transaction Documents", and, where applicable, clauses (x) and (xi) of the definition of "Transaction Documents" as the context requires, that the variable terms to be set forth in the proposed documents are as reasonably contemplated in the Reviewed Documentation, as to the type, scope and extent of the Primary Obligations arising thereunder and as to the timing, conditions and circumstances in which payment obligations under such Primary Obligations may arise, but without regard to the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reviewed Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(c) ~~(b)~~ with respect to the Reviewed Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

[9] Province to consider if OPG should be empowered to make this qualitative judgment on behalf of the Province.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum[10]

(a) [Not less than [■] Business Days prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province: (i) a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice of the initial Protection Agreement Maximum which shall be based on the Initial Forecast.

(b) Not more than [■] Business Days following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province shall confirm its agreement with the initial Protection Agreement Maximum or if the Province does not agree with the determination of the initial Protection Agreement Maximum, which disagreement may only be on the basis that the Initial Forecast does not accord with the Financing Plan and not on any other basis, the Province and OPG will discuss and address any inaccuracies in the Financing Plan to the reasonable satisfaction of both parties, and the initial Protection Agreement Maximum will be revised accordingly.]

(c) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a

[10] Province to consider OPG's proposal for Program Agreement Maximum. In effect, the discretion of the Province is removed and the limiter is tied directly to OPG's forecast (to be consistent with the financing plan required by the Act). This means that the Province has no independent escape hatch to limit its potential fiscal exposure under the Protection Agreement. As discussed, the actual exposure will depend on the determinations to use the IESO sale mechanics to fund shortfalls – in other words, if IESO were to not sell investment interests, then the corresponding funding obligations subject to the Protection Agreement would not arise. Note that the financing plan is almost entirely within OPG's discretion and is based on long-term estimates that assume maximum use of the IESO sale mechanics. Has the Province confirmed that committing to this arrangement for the term (30 years) of the OFHPA, without a limiter that is within the Province's control, will not result in a huge contingent liability being booked in the Province's accounts (i.e., maximum fundings for 30 years)? Has the Province determined whether there are other internal governance reasons to require an escape hatch for the purposes of its fiscal management purposes? Note that Protection Events are not all within the Government's control (e.g., *ultra vires* and invalidity issues).

"**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum based on such Forecast.

(d) Not more than [■] Business Days following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(c), the Province shall confirm its agreement with the revised Protection Agreement Maximum or if the Province does not agree with the determination of the revised Protection Agreement Maximum, which disagreement may only be on the basis that the further Forecast does not accord with the Financing Plan and not on any other basis, the Province and OPG will discuss and address any inaccuracies in the Financing Plan to the reasonable satisfaction of both parties, and the revised Protection Agreement Maximum will be revised accordingly.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of the FSM

The FSM represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, shall [use commercially reasonable efforts to] cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

[OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto and to own its property and carry on its business as currently conducted.

OPG has been validly appointed, and has irrecovably accepted such appointment, as the FSM in accordance with the Act. OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.][11]

[11] Province to consider carve back of OPG reps and liability issues with role as FSM only.

FSM + FE

but its OPG as FSM.

(c) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation of [the Financing Entity enforceable against the Financing Entity][12] in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(d) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(e) [There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG (including in its capacity as the FSM) or the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or the Financing Entity or in the ability of OPG or the Financing Entity to perform their respective obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.][13]

(g) ~~(e)~~ The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) [Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or

[12] Focus was on OPG. They shifted it to the Trust.

[13] Province to consider carve back of OPG reps and liability issues with role as FSM only.

instruments to which OPG is a party or by which it or any of its property and assets are bound.][14]

(i) [No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.][15]

5.02 Representations and Warranties of the Province[16]

The Province hereby represents and warrants that:

(a) the Province has the necessary power, authority and capacity to execute and perform its obligations under this Agreement;

(b) the execution, delivery and performance by the Province of this Agreement does not and will not result in a violation of any applicable law;

(c) all necessary action has been taken by the Province including, without limitation, under sections 5(2) and 5(3) of the Act and section 28(1.1) of the *Financial Administration Act*, R.S.O. 1990 c. F. 12, to authorize the execution and delivery of this Agreement by the Province and the performance by the Province of its obligations hereunder; and

(d) this Agreement has been duly authorized, executed and delivered on behalf of the Province and is a legal, valid and binding obligation of the Province, enforceable against it in accordance with its terms.

query

yes needs qualifications

not often

[14] Deleted by OPG. Province to consider.

[15] Deleted by OPG. Province to consider.

[16] Province to consider OPG's request for these representations. Does the Province make these sorts of representations in a commercial agreement? To the extent that the Province makes a statement (such as 5.02(d)) that is not caveated by the usual considerations applicable to a Crown obligation, the parallel rep requested in the Protection Agreement could be held out as a misstatement and itself provoke a "Protection Event" – suggesting that these sorts of "nice to have" reps from the Province will be more work (and potentially dangerous) than they are worth.

??

ARTICLE VI
ELECTION[17] TO ASSUME APPROVED OBLIGATIONS[218]

6.01 Election by the Province

At any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) elect to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor. To make such election, the Province shall duly complete and deliver to the FSM a notice in the form of Exhibit A (an "**Election Notice**"), which in turn will set forth the form of agreement (an "**Assumption Agreement**") setting forth the material terms and conditions under which the Province would assume and become obligated under each of the Obligations Secured. The Election Notice shall, among other things, specify the date on which the Province proposes to assume the Obligations Secured, which date shall be no earlier than 20 Business Days following delivery of the Election Notice to the FSM (the "**Proposed Assumption Date**").

6.02 Details regarding Obligations Secured

Promptly following the delivery of the Election Notice to the FSM, the FSM shall provide the following information and documentation to the Province:

(a) a summary of the amounts that will be owing under all Obligations Secured as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under the Obligations Secured;

(b) a summary of the rights arising under the Obligations Secured that permit the Financing Entity to assign the Obligations Secured to the Province, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;

(c) current versions of all documentation under which the Obligations Secured arise;

(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured by the Province;

[17] Province to consider OPG's proposal to move Art VI to the Protection Agreement. The approach taken originally was motivated by the desire to keep the details and plumbing out of the "external" document. If we move toward putting all of this into the Protection Agreement, it will raise additional drafting issues (e.g., we will have to have a parallel "Breach Event" concept in the Protection Agreement that will deal with these sorts of undertakings and allow for a suspension of the Limited Guarantee), but should otherwise be fine in principle.

[218] Note to Province/Blakes: Article 6 to be moved and merged with Article 6 of the Change of Law Protection Agreement with appropriate revisions. It is more appropriate in that agreement. See also the comments in Article 6 of the Change of Law Protection Agreement.

(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement; and

(f) the form of Assumption Agreement in respect of the assignment and assumption of all Obligations Secured is attached as Exhibit E to the Change of Law Protection Agreement.[319]

6.03 Settlement of Terms

Within 20 Business Days following receipt by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether or not it will proceed with the assignment and assumption of the Obligations Secured and, if it will be proceeding with the assignment and assumption, the date on which the Province intends that assignment and assumption will be effected, which may not be earlier than the Proposed Assumption Date. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section 6.01 of the Change of Law Protection Agreement, which will specify such date as the "Assumption Closing Date" for the purposes thereof.

6.04 Cooperation to Implement the Assignment and Assumption

The FSM shall cooperate with the Province and will [use commercially reasonable efforts to][20] cause the Financing Entity to cooperate, and shall use its commercially reasonable efforts, to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.[421]

6.05 Terms of Obligations Secured

In order to permit the Province to assume the Obligations Secured in the circumstances contemplated herein, the FSM will use commercially reasonable efforts to cause the Financing Entity to, [use commercially reasonably efforts to] ensure that all Obligations Secured permit such an assignment to and assumption by the Province substantially in accordance with the terms and on the basis contemplated in the Assumption Agreement, without any penalty or make-whole payment, or any requirement for further consent, approval or agreement, or alternatively, in the case of any Obligations Secured entered into by or on behalf of the Financing Entity for the provision of on-going services to the Financing Entity permitting the satisfaction and termination of such Obligations Secured on or prior to the effective time of such assumption without any acceleration of future fees, profits or other like amounts~~; provided that, this Section 6.05 shall not apply to any Obligations Secured~~, other than to the extent of payment obligations arise under

[319] Note to Province: A form of global Assumption Agreement for all Obligations Secured is required. It is impractical to have an assumption agreement for each type of Obligation Secured. Province: We can be guided by OPG on this, but it seems simplistic to think that the same assumption agreement will work for swaps, debt and service obligations. Ultimately, this is a mechanics point.

[20] Province to consider scope of commitment.

[421] Note: Further details regarding obtaining of third party consents and rating agency approvals to be considered.

market standard mark-to-market payment terms and conditions included on a commercially reasonable basis under a Derivative Agreement.[522]

ARTICLE VII
BREACH EVENTS

7.01 Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, of any covenants of the FSM under this Agreement [which continues for sixty (60) days after written notice by the Province to the FSM of such default or breach][23];

(b) any representation or warranty made by the FSM in this Agreement, any certification made in a ~~Process~~ Certificate, or any certification made in a certificate contemplated by Section 4.03 of the Change of Law Protection Agreement, proves to be incorrect on the date made [and, if curable, is not cured within sixty (60) days after written notice by the Province to the FSM of such misrepresentation][24]; or

(c) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager. **[NTD: The FSM is a statutory role and OPG can only be removed as FSM by the Province.][25]**

7.02 Notice on Breach Event

If any Breach Event shall have occurred and not been waived in writing by the Province, the Province shall have the right at its option, upon written notice to the FSM, and in addition to and not in substitution for any other remedies available hereunder at law or equity, to provide a Suspension Notice to the Indenture Trustee, the FSM and the Financing Entity in accordance with the terms of the Change of Law Protection Agreement.

[522] Note: The Trust Indenture will need to include a clause providing that the obligations of the Financing Entity to the Indenture Trustee and the Noteholders may be assigned to the Province in accordance with an assumption agreement, substantially in the form set out in an exhibit to the Trust Indenture. **[NTD: The form of Assumption Agreement shall be an exhibit to the Change of Law Protection Agreement (consistent with our comment to move Article 6 here to the Change of Law Protection Agreement). We will add the following to the MTI to otherwise address your comment: (i) Specified Creditors will be required to acknowledge the rights of the Province to assume the Obligations Secured pursuant to Sections 5.01(f) and 5.03(b) of the MTI, and (ii) we will add language in section 11.01 of the MTI that allows the Indenture Trustee to enter into the global Assumption Agreement without the consent of Specified Creditors.]**

[23] Province to consider proposed 60 day cure period. This is an extraordinary suggestion and if accepted would greatly weaken the Province's ability to address a problem in the unlikely event one comes up with OPG.

[24] Extraordinary suggestion by OPG – weakens Province.

[25] This should be considered. If true, it is unclear why that should make a difference – in terms of enabling the Province to cut-off its forward obligations in the event of a fundamental problem or circumstance (change of control) that leads to a replacement of OPG as FSM.

ARTICLE VIII
MISCELLANEOUS

8.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

8.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the FSM:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 8.02.

8.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 8.03 shall be null and void.

8.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

8.06 Intentionally Deleted[626]

8.07 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

[626] To be considered based on what would be customary and appropriate for similar types of arrangements and would be acceptable to the Province. **[NTD: The existence and details of this Agreement and the Change of Law Protection Agreement cannot be confidential. It will need to be disclosed to the Rating Agencies and to potential investors.][Province: That circle should still be protected through carve-outs from ordinary non-disclosure terms and conditions. Province to consider if confidentiality is a concern. It was included as a consideration in the term sheet.]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC., [SOLELY][27] AS FINANCIAL SERVICES MANAGER TO THE FINANCING ENTITY

By: _____

Name:
Title:

By: _____

Name:
Title:

[27] Unusual. OPG is trying to incorporate inherent limitations applicable to an agency relationship.

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

FAIR HYDRO TRUST, BY ITS MANAGER, ONTARIO POWER GENERATION INC.

By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Assumption Agreement**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" has the meaning ascribed thereto in Section 7.01.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Election Notice**" has the meaning ascribed thereto in Section 6.01.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(c).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in Section 4.01(a).

"**Initial Forecast Period**" has the meaning ascribed thereto in Section 4.01(a).

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Lien**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Proposed Assumption Date**" has the meaning ascribed thereto in Section 6.01.

"**Protection Agreement Maximum**" means the dollar amount [referenced as the Program Agreement Maximum in accordance with Article IV].

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Reviewed Documentation**" has the meaning ascribed thereto in Section 3.03.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Substantially in the Form**" has the meaning ascribed thereto in Section 3.04.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture

Trustee dated as of [■], 2017.

EXHIBIT A
FORM OF ELECTION NOTICE

Document comparison by Workshare Compare on Friday, November 10, 2017 12:39:56 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239361/8
Description	TOR_2528-#23239361-v8-CLPA_-_Process_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239361/9
Description	TOR_2528-#23239361-v9-CLPA_-_Process_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	137
Deletions	33
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	172

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.[, AS FINANCIAL SERVICES MANAGER[1]]

CHANGE OF LAW PROCESS AGREEMENT

Dated as of [■], 2017

[1] OPG to consider if this agreement should form part of the overall covenant pattern (Program Agreement). We assume not. If OPG signs as FSM, consider the potential impact on the Trust, if the FSM is considered to be contracting on behalf of the Trust as principal. The intention was to keep these terms 'behind the scenes' and as between OPG and the Province.

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**")[, as Financial Services Manager for the Financing Entity in accordance with the Act,] is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.[+]

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred or amended.

Prior to entering into this Agreement, the [FSM] provided the Province with copies of certain of the Transaction Documents, and the Province has confirmed by a notice delivered to [the FSM] that the reviewed forms (as further described in such notice) shall be Reviewed Documentation for the purposes of this Agreement.

This Agreement sets out the obligations [the FSM] has agreed to perform and assurances [the FSM] has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied in connection with the incurrence or amendment of an Approved Obligation, maintaining information related to the Program Agreements and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of [the FSM], and of the Province in accordance with the Act, have been done.

[+] ~~Note: This draft only addresses the first Financing Entity. If additional financing entities are established, revisions to this Agreement may be made at that time, in context. Any additional financing entities contemplated should be as contemplated in the Financing Plan.~~

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor~~, except in each case as referenced in the definition of Protection Event~~;

Is this still o/s?

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this

Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to ~~the FSM, as agent of~~ the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties will engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT.

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 ~~1.01~~ Change of Law Process Agreement Referred to in the Change of Law Protection Agreement

This Agreement is the "Change of Law Process Agreement" referred to in the Change of Law Protection Agreement.

1.11 ~~1.10~~ Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.12 ~~1.11~~ Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF [THE FSM]

2.01 Deliveries to the Province

(a) Not less than [15 Business Days] prior to the initial issuance of any Funding Obligation by the Financing Entity, [the FSM] shall deliver to the Province a copy of the initial Financing Plan. Thereafter, [the FSM] shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 10 Business Days prior to (i) any proposed change or supplement to a previously provided Transaction Document becoming effective or otherwise being used or (ii) any additional or replacement Transaction Document becoming effective or otherwise being used, [the FSM] shall deliver to the Province a copy of such proposed change or, supplement to the Transaction Document and any such additional or replacement Transaction Document.

(c) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, [the FSM] shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(d) Promptly upon request, [the FSM] shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) [The FSM] shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of its obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

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(v) not:

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the ~~Province~~ under the Change of Law Protection Agreement;

(B) consent to the resignation of the Manager under the Management Agreement; ~~or~~

(C) ~~(B)~~ permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired.

(b) [The FSM ~~shall use commercially reasonable efforts~~] shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto; ~~and~~

(ii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

(iii) ~~(ii) to,~~ after the occurrence of any Protection Event (or any event that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any ~~redemption, pre-payment,~~ early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

(c) Nothing in this Agreement shall limit the obligations of the Province under the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 and to the extent of any conflict between this Agreement and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify the FSM ~~or the Financing Entity~~, the latter shall prevail. [For clarity, OPG's obligations under this Agreement are solely in its capacity as the FSM.]

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate

[The FSM] shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of ~~the FSM~~OPG (or their respective designees, provided that such designees are also executive officers of ~~the FSM~~OPG) and addressed to the Province, on the earlier of (i) one Business Day prior to the incurrence or any amendment of a Primary Obligation, and (ii) on the Business Day on which the financial terms of such Primary Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities), setting out the following with respect to such Primary Obligation:

(a) the material terms of the Primary Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, the notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

(b) if an existing Primary Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement to the effect that: (i) the Primary Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reviewed Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) ~~reflect, in all material respects,~~ arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reviewed Documentation;

(d) a statement confirming that any disclosure made in respect of the Primary Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the Primary Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available for review to the Province prior to use or dissemination ~~and the Province provided its written consent to such use or dissemination~~; other than where such disclosure was substantially the same as a disclosure previously made and for which the Province had previously provided its written consent;

(e) ~~(d)~~ a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(f) ~~(e)~~ confirmation that, at the time the Primary Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the Protection Agreement Maximum; for clarity, Repayments ~~shall not include any payments or outstanding amounts due or becoming dues in the future in respect of any Primary Obligations arising under or in connection with a Derivative Agreement~~under Obligations Secured owing in currencies other than Canadian dollars and in respect of which a Derivative Agreement has been entered into to hedge related currency exposures shall be valued for this purpose on the basis of the hedged value expressed in Canadian dollars for so long as such Derivative Agreement is in good standing.

3.02 Acknowledgment

The parties acknowledge that the Process Certificate is the "process certificate" referred to in Subsection 4.02(~~d~~b) of the Change of Law Protection Agreement.

3.03 Meaning of "Reviewed Documentation"

For the purposes of Subsection 3.01(c), the term "Reviewed Documentation" shall mean each Transaction Document (including any change, addition or supplement thereto) that, at the relevant time:

(a) is a Transaction Document provided to the Province prior to the making of this Agreement and in respect of which the notice contemplated in the fifth recital to this Agreement has been delivered by the Province to [the FSM]; ~~and~~or

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has been accepted by the Province, as confirmed by way of a written notice of acceptance from the Province delivered to [the FSM].

3.04 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reviewed Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reviewed Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation ~~that would be adverse to the Issuer~~, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up,

liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to Section 5.01 or Article VI of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation or upon the assumption of obligations in accordance with Article VI of the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reviewed Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reviewed Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(b) with respect to the Reviewed Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

(a) ~~[~~Not less than ~~[■]~~15 Business Days prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province: (i) a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice of the initial Protection Agreement Maximum, which ~~shall be based on~~may not exceed the Initial Forecast.

(b) Not more than ~~[■]~~10 Business Days following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province ~~shall confirm its agreement with the initial Protection Agreement Maximum or if the Province does not agree with the determination of the initial Protection Agreement Maximum, which disagreement may only be on the basis that the Initial Forecast does not accord with the Financing Plan and not on any other basis, the Province and~~may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan, or (iii) the initial Protection Agreement Maximum is not less than the Initial Forecast. If the Province disagrees, OPG ~~will~~shall discuss ~~and~~any discrepancies with the

Province, address any inaccuracies ~~in the Financing Plan~~ and inconsistencies to the reasonable satisfaction of ~~both parties~~the Province, and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province.~~]~~

(c) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis ~~with respect to each~~ successive 24 month period or more frequently ~~(~~with the consent of the Province ~~if at~~ any time OPG has knowledge ~~that the most recent forecast is materially inaccurate~~ (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum ~~based on~~, which may not exceed such Forecast.

(d) Not more than ~~[■]~~10 Business Days following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(c), the Province ~~shall confirm its agreement with the revised Protection Agreement Maximum or if the Province does not agree with the determination of the revised Protection Agreement Maximum, which disagreement may only be on the basis that the further Forecast does not accord with the Financing Plan and not on any other basis, the Province and OPG will~~may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is not less than the further Forecast. If the Province disagrees, OPG shall discuss ~~and~~any discrepancies with the Province, address any inaccuracies ~~in the Financing Plan~~ and inconsistencies to the reasonable satisfaction of ~~both parties~~the Province, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(e) For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars and in respect of which a Derivative Agreement has been entered into to hedge related currency exposures shall be valued for the purposes of this Section 4.01 on the basis of the hedged value expressed in Canadian dollars for so long as such Derivative Agreement is in good standing.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of [the FSM]

[The FSM] represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, ~~shall use commercially reasonable efforts to~~may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) ~~OPG has been validly appointed, and has irrecovably accepted such appointment, as the FSM in accordance with the Act.~~ OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) ~~(c)~~ The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation ~~of the Financing Entity enforceable against the Financing Entity~~ in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) ~~(d)~~ There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) ~~(e)~~ The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

~~(a) the Province has the necessary power, authority and capacity to execute and perform its obligations under this Agreement;~~

(a) ~~(b)~~ the execution, delivery and performance ~~by the Province~~ of this Agreement ~~does not and will not result in a violation of any applicable law;~~by the Province have been authorized by all necessary action on the part of the Province;

(b) ~~(c) all necessary action has been taken by the Province including, without limitation, under sections 5(2) and 5(3) of the Act and section 28(1.1) of the *Financial Administration Act*, R.S.O. 1990 c. F. 12, to authorize the execution and~~the execution, delivery and performance of this Agreement by the Province ~~and the performance by the Province of its obligations hereunder~~do not result in the violation of any applicable law; and

(c) ~~(d)~~ this Agreement has been duly ~~authorized,~~ executed and delivered ~~on behalf of~~by the Province ~~and is a legal, valid and binding obligation of the Province, enforceable against it in accordance with its terms~~.

ARTICLE VI
ELECTION[2] TO ASSUME APPROVED OBLIGATIONS[2]

6.01 Election by the Province

In order to consider whether

At any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) elect to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor. ~~To make such election~~, the Province shall duly complete and deliver to [the FSM] a notice in the form of Exhibit A (an "~~**Election Notice**~~"), which in turn will set forth the form of agreement (an "**Assumption Agreement**") setting forth the material terms and conditions under which the Province would assume and become obligated under each of the Obligations Secured. The Election Notice shall, among other things, specify the date on which the Province proposes to assume the Obligations Secured, which date shall be no earlier than 20 Business Days following delivery of the Election Notice to [the FSM] (the "**Proposed Assumption Date**").

6.02 Details regarding Obligations Secured

Promptly following the delivery of the ~~Election~~ Notice to [the FSM], [the FSM] shall provide the following information and documentation to the Province:

(a) a summary of the amounts that will be owing under all Obligations Secured as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under the Obligations Secured;

(b) a summary of the rights arising under the Obligations Secured that permit the Financing Entity to assign the Obligations Secured to the Province, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;

(c) current versions of all documentation under which the Obligations Secured arise;

(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured by the Province;

[2] OPG's proposal to move Art VI to the Protection Agreement is not consistent with the original basis for the Process Agreement - to keep the details and plumbing out of the "external" document. If we move toward putting all of this into the Protection Agreement, it will raise additional drafting issues (e.g., we will have to have a parallel "Breach Event" concept in the Protection Agreement that will deal with these sorts of undertakings and allow for a suspension of the Limited Guarantee). OPG to advise if that approach is preferred.

[2] ~~Note to Province/Blakes: Article 6 to be moved and merged with Article 6 of the Change of Law Protection Agreement with appropriate revisions. It is more appropriate in that agreement. See also the comments in Article 6 of the Change of Law Protection Agreement.~~

(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement; and

(f) the form of Assumption Agreement in respect of the assignment and assumption of all Obligations Secured ~~is~~ attached as Exhibit E to the Change of Law Protection Agreement.[3]

6.03 Settlement of Terms

Within ~~20~~30 Business Days following receipt by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether or not it will proceed with the assignment and assumption of the Obligations Secured and, if it will be proceeding with the assignment and assumption, the date on which the Province intends that assignment and assumption will be effected, which may not be earlier than the Proposed Assumption Date. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section 6.01 of the Change of Law Protection Agreement, which will specify such date as the "Assumption Closing Date" for the purposes thereof.

6.04 Cooperation to Implement the Assignment and Assumption

[The FSM] shall cooperate with the Province and will use commercially reasonable efforts to cause the Financing Entity to cooperate, and shall use its commercially reasonable efforts, to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.[4]

std

6.05 Terms of Obligations Secured

In order to permit the Province to assume the Obligations Secured in the circumstances contemplated herein, [the FSM ~~will use commercially reasonable efforts to~~] shall cause the Financing Entity ~~to, use commercially reasonably efforts~~ to ensure that all Obligations Secured permit such an assignment to and assumption by the Province substantially in accordance with the terms and on the basis contemplated in the Assumption Agreement, without any penalty or make-whole payment, or any requirement for further consent, approval or agreement, or alternatively, in the case of any Obligations Secured entered into by or on behalf of the Financing Entity for the provision of on-going services to the Financing Entity permitting the satisfaction and termination of such Obligations Secured on or prior to the effective time of such assumption without any acceleration of future fees, profits or other like amounts~~; provided that, this Section 6.05 shall not apply to any Obligations Secured~~, other than to the extent of payment obligations

[3] ~~Note to Province: A~~Torys to provide a draft of the proposed form of global Assumption Agreement for all Obligations Secured ~~is required. It is impractical to have an~~. The Province may be guided by OPG on this, but we note that it seems simplistic to think that the same assumption agreement ~~for each type of Obligation Secured~~will work for swaps, debt and service obligations.

[4] ~~Note: Further details regarding obtaining of third party consents and rating agency approvals to be considered.~~

arise under market standard mark-to-market payment terms and conditions included on a commercially reasonable basis under a Derivative Agreement.[54]

ARTICLE VII
BREACH EVENTS

7.01 Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, of any covenants of [the FSM] under this Agreement, which continues for ~~sixty~~thirty (~~60~~30) days after written notice by the Province to [the FSM] of such default or breach;

(b) any representation or warranty made by [the FSM] in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Section ~~4.03~~4.02 of the Change of Law Protection Agreement, proves to be incorrect on the date made and, if curable, is not cured within ~~sixty~~thirty (~~60~~30) days after written notice by the Province to [the FSM] of such misrepresentation; or

(c) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager. ~~[NTD: The FSM is a statutory role and OPG can only be removed as FSM by the Province.]~~

7.02 Notice on Breach Event

If any Breach Event shall have occurred and not been waived in writing by the Province, the Province shall have the right at its option, upon written notice to [the FSM], and in addition to and not in substitution for any other remedies available hereunder at law or equity, to provide a Suspension Notice to the Indenture Trustee, [the FSM] and the Financing Entity in accordance with the terms of the Change of Law Protection Agreement.

[5] ~~Note:~~ [4]The Trust Indenture will need to ~~include a clause providing that~~permit the obligations of the Financing Entity to the Indenture Trustee and the Noteholders ~~may~~to be assigned to and assumed by the Province in accordance with an assumption agreement, substantially in ~~the~~a form of agreement to be set out in an exhibit to the Trust Indenture. ~~[NTD: The form of Assumption Agreement shall~~The Province agrees that the same form of the assumption agreement should also be an exhibit to the Change of Law Protection Agreement ~~(consistent with our comment to move Article 6 here to the Change of Law Protection Agreement). We~~. The Trust Indenture will need to be revised to ensure that the Province's assignment and assumption right is fully contemplated and may be implemented without any requirement for further Specified Creditor or other third party consents. Among other changes, it is contemplated that Torys will add the following to the MTI to ~~otherwise~~ address ~~your comment~~this requirement: (i) Specified Creditors will be required to acknowledge the rights of the Province to assume the Obligations Secured ~~pursuant to Sections 5.01(f) and 5.03(b) of the MTI, and (ii) we will add language in section 11.01 of the MTI that allows~~on the basis contemplated in the form of assumption agreement, and (ii) the Indenture Trustee will be permitted to enter into and give effect to the global Assumption Agreement without the consent of Specified Creditors or any other third parties.~~]~~

ARTICLE VIII
MISCELLANEOUS

8.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

8.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the FSM:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: [■]
Fax: (416) [■]
Email: [■]

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 8.02.

8.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 8.03 shall be null and void.

8.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

8.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

~~**8.06 Intentionally Deleted**[6]~~

8.06 ~~8.07~~ Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

[6] ~~To be considered based on what would be customary and appropriate for similar types of arrangements and would be acceptable to the Province. [NTD: The existence and details of this Agreement and the Change of Law Protection Agreement cannot be confidential. It will need to be disclosed to the Rating Agencies and to potential investors.]~~

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC., ~~SOLELY~~ [AS FINANCIAL SERVICES MANAGER TO THE FINANCING ENTITY]

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST~~, BY ITS MANAGER, ONTARIO POWER GENERATION INC.~~

By: _____

Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Assumption Agreement**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" has the meaning ascribed thereto in Section 7.01.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Election Notice**" has the meaning ascribed thereto in Section 6.01.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(c).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in Section 4.01(a).

"**Initial Forecast Period**" has the meaning ascribed thereto in Section 4.01(a).

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Proposed Assumption Date**" has the meaning ascribed thereto in Section 6.01.

"**Protection Agreement Maximum**" means the dollar amount [referenced as the Program Agreement Maximum in accordance with Article IV].

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Reviewed Documentation**" has the meaning ascribed thereto in Section 3.03.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Security Interest**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture as of the date of this Agreement or hereafter as may be confirmed by notice in writing from the Province to the Indenture Trustee.

"**Substantially in the Form**" has the meaning ascribed thereto in Section 3.04.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

EXHIBIT A
FORM OF ELECTION NOTICE

Document comparison by Workshare Compare on Tuesday, November 14, 2017 8:22:37 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239361/8
Description	TOR_2528-#23239361-v8-CLPA_-_Process_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239361/10
Description	TOR_2528-#23239361-v10-CLPA_-_Process_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	173
Deletions	108
Moved from	5
Moved to	5
Style change	0
Format changed	0
Total changes	291

~~Draft~~Blakes Comments: November ~~21,~~26, 2017

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE[1]

AND

COMPUTERSHARE TRUST COMPANY OF CANADA, AS TRUSTEE OF FAIR HYDRO TRUST[1][2]

AND

ONTARIO POWER GENERATION INC., AS FINANCIAL SERVICES MANAGER AND AS MANAGER OF FAIR HYDRO TRUST

AND

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE

CHANGE OF LAW PROTECTION AGREEMENT

Dated as of [■], 2017

This **AGREEMENT**, among Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), Computershare Trust Company of Canada, in its capacity as trustee (the "**Financing Entity Trustee**") of Fair Hydro Trust, a trust under the laws of the Province of Ontario (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager in accordance with the Act (the "**FSM**") and BNY Trust Company of Canada, a trust company existing under the laws of Canada, as Indenture Trustee, is made and entered into as of [■], 2017.

RECITALS

Pursuant to Subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**"), the Lieutenant Governor in Council may by order, authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to agree to guarantee or indemnify certain debts, obligations, securities or undertakings associated with an Investment Interest.

Pursuant to an Order in Council dated as of ■ (the "**OIC**"), the Lieutenant Governor in Council has, among other things, authorized the Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, to enter into one or more agreements to guarantee or indemnify the debts, obligations, securities or undertakings of one or more financing entities established or caused to be established pursuant to Subsection 22(2) of the Act by the FSM and that may incur Funding Obligations in connection with one or more Investment Interests.

Pursuant to a Declaration of Trust~~[23]~~ dated as of ■, 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

The Financing Entity Trustee, in its capacity as trustee of the Financing Entity, and the Indenture Trustee are parties to the Trust Indenture and propose to create and issue series of notes, bonds and other securities as contemplated therein, and to provide security over the assets and undertaking of the Financing Entity in respect of such notes, bonds and securities, as well as other Obligations Secured.

The Minister of Energy and the Minister of Finance, acting together on behalf of the Province of Ontario, have determined to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Primary Obligations ~~Secured~~ that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions at the time the Approved Obligation is incurred ~~or amended~~. This Agreement sets out the terms and conditions of such protections and assurances.

All things necessary to make this Agreement a valid and legally binding agreement of the Province, the Financing Entity, the FSM and the Indenture Trustee, in accordance with the Act, the OIC and the Trust Indenture, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(c) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(d) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(e) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(f) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(g) all references in this Agreement to designated "Articles", "Sections", "Subsections", "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(h) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(i) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 Trustee to act in accordance with the Trust Indenture

Any action taken, required to be taken or permitted to be taken by the Indenture Trustee under this Agreement shall only be taken in the manner, at the times, for the purposes, subject to the prerequisites, conditions, requirements and limitations, and with the benefits, exculpations, indemnities and protections that are provided to the Indenture Trustee, in each case in respect of such action taken, required to be taken or permitted to be taken by it under the Trust Indenture.

1.03 Proof of Approved Obligations

The efficacy of any agreement, instrument or writing evidencing a Primary Obligation may, in the absence of manifest error, be conclusively proved in any manner that the Indenture Trustee deems to be sufficient.

Any statement of account prepared by the Indenture Trustee as regards the Primary Obligations shall constitute *prima facie* evidence of the amount which, as at the date of the statement so prepared, is due and payable by the Financing Entity to the Beneficiaries and/or the Indenture Trustee and the Province hereby acknowledges and agrees that, absent manifest error, it shall be bound by each such statement. The Indenture Trustee agrees to provide the Province with the computations and calculations used by the Indenture Trustee to prepare each such statement of account promptly following a request therefor.

1.04 Limitation on Rights of and Actions by Specified Creditors

Specified Creditors, as Beneficiaries, shall not have or be permitted to exercise any rights, interests, or elections under this Agreement, other than in the manner and to the extent effected and exercised under, in accordance with and subject to the limitations set forth in the Trust Indenture as of the date of this Agreement.

1.05 Province Retains Rights of Beneficiaries

Without limiting any rights of subrogation or succession that arise pursuant to applicable law or pursuant to the Province's rights as an assignee, subrogee or pursuant to Section 2.01 or Section 5.01, all of the rights, interests, elections and privileges that would arise in favour of a Beneficiary under the Trust Indenture or other Funding Obligation Agreement under which a related Primary Obligation arises shall automatically arise, vest in and be available to the Province to the extent of the performance by the Province of the Primary Obligation.

1.06 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.07 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not. All covenants and agreements of the Indenture Trustee, the Financing Entity, the Financing Entity Trustee, the Manager or the FSM in this Agreement shall bind their respective successors, co-trustees and agents.

1.08 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.09 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.10 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.11 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.12 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one

and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.13 Change of Law Protection Agreement Referred to in the Trust Indenture

This Agreement is the "Change of Law Protection Agreement" referred to in the Trust Indenture.

1.14 Non-Business Days

Whenever any payment to be made hereunder shall be stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

1.15 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

1.16 Interest Act

For the purpose of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement that is calculated on any basis other than a full calendar year is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly rate of interest is to be ascertained and the denominator of which is the number of days comprising such other basis. The parties further agree that for the purposes of the *Interest Act* (Canada), (i) the principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement, and (ii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

1.17 Currency

Unless stated otherwise, all amounts herein are stated in Canadian Dollars.

1.18 References to Acts of the Financing Entity

For greater certainty, where any reference is made in this Agreement, or in any other instrument executed pursuant hereto or contemplated hereby to which the Financing Entity or the Financing Entity Trustee, as trustee of the Financing Entity, is party, to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to (i) the Financing Entity or (ii) the Financing Entity Trustee, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against or a covenant, representation or warranty (other than relating to the constitution or existence of the Financing Entity) by or with respect to, the Financing Entity Trustee as trustee of the Financing Entity.

1.19 Judgment Currency

(a) If for the purpose of obtaining judgment in any court or for any other purposes (other than conversions specifically provided for in the agreement under which an Approved Obligation arises), it is necessary to convert any amount due under this Agreement from the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the purchaser could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date on which judgment is given. The obligation of the Province in respect of any Original Currency due from it to the Indenture Trustee under this Agreement shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following receipt of any sum so paid or adjudged to be due under this Agreement in the Second Currency, the Indenture Trustee may, in accordance with normal banking procedures, purchase in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid or so adjudged to be due; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the Province shall indemnify the Indenture Trustee against such loss.

(b) The term "rate of exchange" in this Section 1.19 means the spot rate at which the Indenture Trustee, in accordance with normal practice, is able on the relevant date to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

ARTICLE II
AGREEMENT TO PERFORM APPROVED OBLIGATIONS

2.01 Limited Guarantee

(a) Upon the occurrence of a Protection Event, the Indenture Trustee may deliver a written demand, substantially in the form attached as Exhibit A (a "**Payment Demand**"), to the Province requiring the Province to make payments in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in this Agreement. From and after such delivery of a Payment Demand, the Province shall make the following payments in respect of the Approved Obligations (the "**Limited Guarantee**"), and the Financing Entity shall pay, and the Province shall be entitled to be paid, the Subrogation Amounts specified below, on the specified Guarantee Payment Date:

OK ✓

i. Not less than ~~[~~3~~]~~ Business Days prior to each day when any payment or payments are to be made in respect of one or more Approved Obligations occurring after such delivery of a Payment Demand and prior to the Assumption Effective Date, if any, (a "**Guarantee Payment Date**"), the Manager shall deliver a written statement~~, substantially in the form attached as Exhibit A.1 (a "Guarantor Settlement Statement")~~ setting forth the Aggregate Approved Obligations Amount, if any, in respect of the Approved Obligations that are due and payable on such Guarantee Payment Date, together with a detailed description identifying such Approved Obligations and the nature and amount of payments due and payable thereunder on the Guarantee Payment Date, the aggregate outstanding amount payable by the Financing Entity under such Approved Obligations as of the date of the Guarantor Settlement Statement, and details regarding any default in performance by any party obligated thereunder (a "**Guarantor Settlement Statement**").

OK ✓

ii. On each such Guarantee Payment Date, the Province shall deposit the Aggregate Approved Obligations Amount into the Protection Account.

iii. On each such Guarantee Payment Date, the Financing Entity and the Indenture Trustee shall ensure that the amounts on deposit in the Protection Account are applied to pay each Beneficiary to whom an amount is due and payable under an Approved Obligation on the Guarantee Payment Date the Approved Obligation Amount for such Beneficiary in respect of such Approved Obligation on such Guarantee Payment Date; provided that if the amount deposited pursuant to clause 2.01(a)ii is insufficient to pay all such Approved Obligation Amounts in full, the amount on deposit in the Protection Account on the Guarantee Payment Date shall be applied to pay Beneficiaries in the order of priority in which such Approved Obligations are payable under the payment provisions of the Trust Indenture applicable

to the making of such payments on the Guarantee Payment Date (each, a "**Beneficiary Payee**").

iv. On any Guarantee Payment Date on which an amount is paid by the Province pursuant to clause 2.01(a)ii, the applicable payment provisions of the Trust Indenture shall, notwithstanding the express terms of such provisions set forth in the Trust Indenture, be applied and operate on the following basis:

(A) ~~(i)~~ the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available under such payment provisions on such Guarantee Payment Date shall be reduced by the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on such Guarantee Payment Date;

(B) ~~(ii)~~ the Province shall be paid the ~~amount by which~~lesser of (x) the amount payable to a Beneficiary Payee in respect of an Approved Obligation from amounts available to pay the Beneficiary Payee under such payment provisions on the Guarantee Payment Date, determined without regard to subclause 2.01(a)iv(~~i~~A), ~~exceeds~~and (y) the amount paid to the Beneficiary Payee pursuant to clause 2.01(a)iii in respect of such Approved Obligation on the Guarantee Payment Date (such payments to the Province being "**Subrogation Amounts**"); and

(C) ~~(iii)~~ no Beneficiary having a right to be paid an amount in respect of an Approved Obligation that ranks equal with or subordinate to an Approved Obligation in respect of which an amount is payable to the Province under subclause 2.01(a)iv(~~ii~~B) shall be entitled to make any claim or assert any right in or to the amounts paid or payable to the Province under such subclause (including any right or reimbursement, contribution or indemnity) and no such Beneficiary shall have any right or interest in, to or under the Collateral or any proceeds therefrom in respect of such amounts.

v. On any Guarantee Payment Date, the Indenture Trustee shall release and pay to the Province free and clear of any Liens any amount remaining on deposit in the Protection Account that has not been applied to pay Beneficiary Payees on the Guarantee Payment Date in accordance with clause 2.01(a)iii.

vi. In preparing any payment instructions under the Trust Indenture, the Manager shall reflect the amounts payable for the Guarantee Payment Date under Section 2.01(a).

(b) The Province shall, as a payee of Subrogation Amounts under clause 2.01(a)(iv)(B) and any amounts payable under clause 2.01(a)(v), be a "Specified Creditor" under the Trust Indenture and have the benefit of the Collateral thereunder.

(c) For greater certainty, the Limited Guarantee will not apply to any amount or obligation of the Financing Entity that is not or does not arise under an Approved Obligation and will be limited to the right to receive the Approved Obligation Amounts, if any, for payment to Beneficiary Payees and will be subject to the priorities and to the Province's rights to Subrogation Amounts, set forth in Section 2.01(a).

(d) Except as expressly provided in this Agreement, the Province's obligation to provide and perform the Limited Guarantee shall be irrevocable, absolute and unconditional.

(e) Any amount payable by the Province under the Limited Guarantee in respect of an Approved Obligation that is not paid by the Province when required herein shall bear interest from the applicable due date until paid in full at the rate or rates expressed to be payable on the Approved Obligation by their terms.

(f) The right to deliver a Payment Demand and thereupon enforce the Limited Guarantee shall constitute the only remedy available to the Indenture Trustee (and to the Beneficiaries, to the extent they are permitted to exercise any rights, interests, or elections under and in accordance with the Trust Indenture) under this Agreement. Under no circumstances shall the Province be obligated to pay or indemnify the Indenture Trustee or any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits; provided that, for greater certainty, economic loss shall not include any amount in respect of any amount due and payable to a Beneficiary Payee under the Limited Guarantee.

2.02 Intentionally Deleted.

2.03 Absence of Set-off

Subject to applicable law, the Province acknowledges and agrees that each payment to be made by the Province hereunder in respect of an Approved Obligation shall be made as required in whole, without application of any right of set-off and without regard to any equities as between or among any of the Province, the Beneficiaries and/or the Indenture Trustee.

2.04 Payment into Protection Account[34] in Satisfaction

(a) On or before the date of delivery of a Payment Demand to the Province, the Indenture Trustee shall cause to be established and maintained an Eligible Deposit

Account (the "**Protection Account**") in the name of the Indenture Trustee, bearing a designation clearly indicating that the funds and other property credited thereto are held for the benefit of the Indenture Trustee and the Beneficiaries. The Protection Account shall be under the control of the Indenture Trustee for the benefit of the Beneficiaries. If, at any time, the institution holding the Protection Account ceases to be an Eligible Institution, the FSM shall notify the Indenture Trustee, and the Indenture Trustee upon being notified in writing of such ineligibility (or the FSM on its behalf) shall within 30 days (or such longer period, not to exceed 45 days, so long as the Rating Agency Condition is satisfied) establish a new Protection Account that is an Eligible Deposit Account and shall transfer any funds or other property from such Protection Account to such new Protection Account. From the date each such new Protection Account is established, it shall be the "Protection Account" for purposes of this Agreement. Funds credited to the Protection Account will be invested and held in accordance with Section **[7.03]** of the Trust Indenture on the basis that it is an Issuer Account.

(b) Notwithstanding the priority of payment requirements set forth in the Trust Indenture and any legal rule concerning the imputation of payments, the Financing Entity and the Indenture Trustee shall ensure that all amounts paid by the Province into the Protection Account on a Guarantee Payment Date in respect of an Approved Obligation are applied to pay the amounts due and payable to the Beneficiaries as and to the extent provided for in Section 2.01(a). Upon a payment having been made by or on behalf of the Province into the Protection Account, the amounts so paid shall for all purposes be considered to have been applied to pay the applicable Beneficiaries as provided for in Section 2.01(a) and thereby reduce the amount due and payable to such Beneficiaries in respect of the applicable Approved Obligations, whereupon an affected Beneficiary shall have no continuing rights, interests or entitlements (including rights as a secured party) in respect of the Approved Obligation to the extent so paid[4].[5] For greater certainty, the obligations arising in respect of an applicable Approved Obligation shall not be reduced by such payment as the Province shall become entitled to be paid related Subrogation Amounts and the rights contemplated under Section 2.01(a) and Section 5.01 in relation to such continuing obligations.

2.05 Certain Waivers

The Province hereby waives:

(a) any requirement, and any right to require, that any power be exercised or any action be taken against the Financing Entity or any Collateral for any of the Approved Obligations;

(b) all notices which may be required by applicable law to preserve any rights against the Province hereunder, including any notice of default, demand, dishonour, presentment and protest;

(c) diligence; and

(d) any defence based upon, arising out of or in any way related to any claim that any election of remedies by the Beneficiaries impaired, reduced, released or extinguished any rights that the Province might otherwise have had against the Financing Entity or any other surety.

The Province agrees that each such waiver is made with full knowledge of its significance and consequences and if any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the maximum extent permitted by applicable law.

2.06 Additional Security

This Agreement shall be in addition to and without prejudice to any other security by whomsoever given, held at any time by the Indenture Trustee or for the benefit of any of the Beneficiaries.

2.07 Continuing Liability of the Province

The Approved Obligations shall be deemed not to have been paid, observed or performed, and the liability of the Province hereunder in respect thereof shall continue and not be discharged, to the extent that any payment, observance or performance thereof by the Financing Entity, or out of the proceeds of any Collateral, is recovered from or reimbursed by or for the account of any of the Beneficiaries for any reason, including a preference or fraudulent transfer or by virtue of any subordination (whether present or future or contractual or otherwise) of the Approved Obligations, whether such recovery or payment over is effected by any judgment, decree or order of any court or Governmental Authority, by any plan of reorganization or by settlement or compromise by any of the Beneficiaries (whether or not consented to by the Financing Entity or the Province) of any claim for any such recovery or payment over.

2.08 Continuance of the Limited Guarantee

Subject to Section 2.07, the Limited Guarantee shall continue in full force and effect until the indefeasible payment, observance and performance in full of the Approved Obligations~~, or until the Province is no longer required to provide and perform the Limited Guarantee~~ in accordance with Section ~~6.03 or Section 8.02.~~9.01.[6]

2.09 Modifications of Approved Obligations

The Province expressly authorizes the Indenture Trustee, at any time and from time to time, without notice and without affecting the liability of the Province hereunder, but subject to compliance with the requirements of the Program Agreements and this Agreement, to:

(a) accept new, additional or replacement instruments, documents, agreements or security in connection with all or any part of the Approved Obligations;

(b) accept partial payments on the Approved Obligations; and

(c) waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Approved Obligations and any security or guarantee therefor, and apply any such security and direct the order or manner of sale thereof as the Indenture Trustee (for the benefit of the Beneficiaries) in its discretion may determine.

ARTICLE III
THE INDENTURE TRUSTEE

3.01 The Indenture Trustee

This Agreement is made in favour of the Indenture Trustee in its capacity as trustee under the Trust Indenture. Accordingly, in the event of a new trustee being appointed under the Trust Indenture, such new trustee shall thereupon become and be the Indenture Trustee hereunder, but nevertheless, the Indenture Trustee shall forthwith assign, transfer and make over to the new trustee hereunder this Agreement. All provisions of the Trust Indenture for the protection of the Indenture Trustee or for facilitating the administration of the trusts or otherwise relating to the Indenture Trustee solely as to its holding of the rights thereunder shall apply *mutatis mutandis* to this Agreement and the Indenture Trustee's duties hereunder.

3.02 Acceptance of Trusts

The Indenture Trustee hereby accepts the trusts hereof and agrees to carry out and discharge the same unless and until a new trustee shall be appointed as contemplated in Section 3.01.

ARTICLE IV
APPROVED OBLIGATIONS

4.01 Approval Process

A Primary Obligation shall constitute an Approved Obligation if (i) the Adherence Conditions applicable thereto have been satisfied at the time the Primary Obligation was incurred, or (ii) the Province, in its sole discretion, designates in writing that it is an Approved Obligation.

4.02 Adherence Conditions[5]

The following shall be the Adherence Conditions applicable in relation to each Certified Primary Obligation ~~other than any Funding Obligation under which not more than $■ in the aggregate may become payable by the Financing Entity~~:

(a) the Certified Primary Obligation when incurred is an Obligation Secured under the Trust Indenture; and

(b) OPG, as FSM, delivers a certificate signed by the Chief Financial Officer and the Treasurer of OPG ~~(or their respective designees, provided that such designees are executive officers of OPG and,~~, or any two Executive Officers of OPG (for clarity,

such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Indenture Trustee, ~~one Business Day prior to the Financing Entity entering into or becoming bound by the related Funding Obligation Agreement~~on or before the incurrence of a Certified Primary Obligation (provided that delivery may not be more than 5 Business Days before the incurrence of the Certified Primary Obligation), confirming that OPG has ~~delivered to the Province a certificate signed by the Chief Financial Officer and the Treasurer of OPG (or their respective designees, provided that such designees are executive officers of OPG and, for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) confirming that OPG has complied with all of its obligations to~~provided to the Province all certifications required by the Province ~~and internal requirements and processes~~ in connection with the adherence of the Limited Guarantee to the incurrence of such Certified Primary Obligation;[7] and

(c) in respect of a Certified Primary Obligation other than a Refinancing of a Primary Obligation in respect of which the Adherence Conditions had been satisfied, the Province has not provided a Suspension Notice to the Indenture Trustee, OPG and the Financing Entity.

For greater certainty, (y) satisfaction of the Adherence Conditions for a ~~Funding~~Certified Primary Obligation shall be deemed satisfaction of the Adherence Conditions in respect of all principal, interest and other amounts owing under the ~~Funding~~Certified Primary Obligation, as such ~~Funding~~Certified Primary Obligation may be amended, restated, supplemented or otherwise modified from time to time, and (z) there shall be no Adherence Conditions applicable in relation to a Primary Obligation that is not a Certified Primary Obligation.

4.03 Evidence of Satisfaction

A closing certificate delivered in accordance with Section 4.02(b)~~(x)~~ in connection with an incurrence of a Certified Primary Obligation shall be determinative as to whether the applicable Adherence Conditions with respect thereto have been satisfied, notwithstanding that such certificate may include inaccuracies, be incomplete or otherwise be defective or deficient, and such closing certificate may be relied upon by any addressee as conclusive evidence of same. A closing certificate that purports on its face to be signed by officers specified in Section 4.02(b) may be relied upon by any addressee without further enquiry or evidence as to the incumbency or signatures of such officers. If a closing certificate is not delivered in accordance with the timing requirements of Section 4.02(b) in respect of a Certified Primary Obligation, such certificate may be delivered at a later date, and be effective as if it had been delivered in accordance with the timing requirement of Section 4.02(b), if at the time such certificate was required to be delivered OPG had delivered to the Province all certifications required by the Province in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation.

ARTICLE V
PROVINCE MATTERS

5.01 Assignment and Subrogation

(a) Upon paying an amount in respect of an Approved Obligation to or at the direction of the Indenture Trustee in satisfaction of the Limited Guarantee, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation to the extent of such payment, including (i) the right and entitlement to be paid and receive the related Subrogation Amounts, (ii) the benefits of the related Collateral and (iii) all proceeds therefrom. The Province shall have and be entitled to enforce all rights and interests (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)), under and in respect of such Approved Obligation to the extent of the payment by the Province in respect of the Approved Obligation as an absolute assignee of the applicable Beneficiary, with effect from and after the time of such payment, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing by the Beneficiary to the Financing Entity and unaffected by any other rights or equities that arise thereafter as between the Beneficiary and the Financing Entity. The Indenture Trustee shall recognize the Province as being entitled to all of the rights, interests and entitlements of the Beneficiary (including as a Specified Creditor under the Trust Indenture on the basis contemplated in Section 5.01(b)) in respect and to the extent of the Approved Obligation so paid, determined as of the time of payment, for all purposes under the Trust Indenture, and the Province shall be treated as a Specified Creditor in respect thereof for all purposes under the Trust Indenture and any other agreement under which the Approved Obligation arises.

(b) The Province (i) acknowledges and agrees in favour of the Indenture Trustee that, upon being subrogated and entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Approved Obligation in accordance with Section 5.01(a), the Province, in its capacity as a Specified Creditor, will be subject to the provisions applicable to Specified Creditors under the Trust Indenture, including **[Sections 7.04 through 7.11 and 8.13 (Payment Priorities), Section ~~7.11~~7.12 (Payments Held in Trust), Section 8.11 (Control by Controlling Class Creditors), Section 8.12 (Limitation on Suits), ~~Sections 7.04 and 8.13 (Payment Priorities), Section 8.14 (Limited Recourse), Section 9.14 (Communications to Specified Creditors) and Section 16.01 (No Petition) thereof]~~** and (ii]: (ii) consents, requests and authorizes the Issuer and the Indenture Trustee to (x) add the Province to the register of Specified Creditors described in subsection **[13.13(b)]** of the Trust Indenture and (y) disseminate the notice details of the Province to other Specified Creditors for the purposes set out in subsection **[9.14(b)]** of the Trust Indenture, and (iii) confirms that the Indenture Trustee shall

send notices to the Province, in its capacity as a Specified Creditor, in accordance with Section 9.02.[6]

5.02 Priorities

For greater certainty, the rights, interests and entitlements of the Province as an assignee and subrogee, of and with respect to an Approved Obligation shall rank equally with the rights, interests and entitlements of a Beneficiary to whom a Limited Guarantee payment is made in respect of, and to the extent of the payment made to satisfy, the Approved Obligation and the Province shall not be subject to postponement or subordination with respect thereto except to the extent of the priorities established in relation to the Approved Obligation under the Trust Indenture in the manner and to the extent contemplated in Section 2.01.

5.03 Intentionally Deleted

5.04 Representations and Warranties

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
NOTICE OF ASSUMPTION OF CERTAIN OBLIGATIONS SECURED[8]

6.01 Delivery of Assumption Notice

Following the occurrence of a Protection Event, the Province may (but shall not be obligated to) provide notice (in the form of Exhibit B) to the Indenture Trustee that the Province has elected to assume the Financing Entity's obligations in respect of all Obligations Secured~~, as obligor and debtor~~ permitted to be assumed by their terms (the "**Assumption Notice**"). The Assumption Notice shall specify the date on which the assignment and assumption of ~~the~~such Obligations Secured will be effective (~~the~~each such date being an "**Assumption Closing Date**").[9]

6.02 Cooperation to Implement the Assignment and Assumption

The Indenture Trustee, the FSM, the Financing Entity and the Province will cooperate and use best efforts to complete the assignment and assumption of the Obligations Secured referenced in Section 6.01 by and from the Financing Entity to and by the Province~~,~~ by the applicable Assumption Closing Date.[7]

6.03 Effect of Assignment and Assumption

On the date that the assignment and assumption of the Obligations Secured referenced in Section 6.01 by and from the Financing Entity to and by the Province becomes effective (the "**Assumption Effective Date**"), the Province shall no longer be required to provide and perform the Limited Guarantee but will instead become a primary obligor under ~~the~~such Obligations Secured assumed pursuant to and in accordance with an applicable Assumption Agreement. For greater certainty, the obligations of the Province so assumed will not be secured obligations of the Province and the obligees thereof will have no right, interest or claim to or in respect of the Collateral or any proceeds therefrom. ~~**[NTD: the forms of assumption agreement(s) need to be settled before this agreement is finalized.]**~~

6.04 Interim Period

Until the effective time of the assignment and assumption of the Obligations Secured referenced in Section 6.01 by and from the Financing Entity to and by the Province on the Assumption Effective Date, the Province shall continue to perform and be obligated under the Limited Guarantee with respect to those Obligations Secured.

~~**6.05 Rights in respect of the Assets Comprising the Collateral**~~

~~Upon assuming the Financing Entity's obligations in respect of all Obligations Secured under Article VI, the Province (in addition to and without prejudice to any rights it otherwise has in law or equity) shall be subrogated and entitled to all of the Financing Entity's rights and interests under and in respect of the assets, property and undertaking comprising the Collateral and all proceeds therefrom, free and clear of any liens, encumbrances or restrictions arising under or as a result of the Trust Indenture. The Province shall have and be entitled to enforce all such rights and interests as an absolute assignee of the Financing Entity, with effect from and after the time of such assumption, without any further requirement for notice to or acceptance by the Financing Entity of such absolute assignment and without any reduction, set-off or counterclaim on account of any amounts that may, at or after the time of payment, be or become owing to the Financing Entity and unaffected by any other rights, interests or equities that arise thereafter in respect of the assets, property and undertaking comprising the Collateral as between the Beneficiaries and the Financing Entity. The Indenture Trustee and the Beneficiaries shall thereupon recognize the Province as the absolute owner of the assets, property and undertaking comprising the Collateral.~~

[Note: Torys to explain deletion of subrogation rights. If assumption did occur, then need to have rights in collateral, etc.]

ARTICLE VII
INDENTURE TRUSTEE MATTERS

7.01 Limited Recourse

No recourse may be taken, directly or indirectly, with respect to the obligations of the Financing Entity under this Agreement, or any certificate or other writing delivered in connection herewith or therewith, against (a) the Financing Entity Trustee in its individual capacity, (b) any

owner of a beneficial interest in the Financing Entity or (c) any partner, owner, beneficiary, agent, officer, director, employee or agent of the Financing Entity Trustee in its individual capacity, any holder of a beneficial interest in the Financing Entity or the Financing Entity Trustee or of any successor or assign of the Financing Entity Trustee in its individual capacity, except as any such Person may have expressly agreed (it being understood that the Financing Entity Trustee has no such obligations in its individual capacity).

7.02 Not Responsible for Recitals ~~or Issuance of Notes~~

The recitals contained herein will be taken as the statements of the Province, the Financing Entity and the FSM, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representations as to the validity or sufficiency ~~of~~ this Agreement.

7.03 Representations and Covenants of the Indenture Trustee[10]

The Indenture Trustee represents, warrants and covenants that:

(a) the Indenture Trustee is a trust company organized, existing and in good standing under the laws of Canada; and

~~(b) the Indenture Trustee has full power and authority to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement and other documents to which it is a party;~~

~~(c) each of this Agreement and the other documents to which it is a party has been duly executed and delivered by the Indenture Trustee and constitutes its legal, valid and binding obligation in accordance with its terms; and~~

(b) ~~(d)~~ the Indenture Trustee is authorized to carry on the business of a trust company in each of the provinces and territories of Canada.

ARTICLE VIII
SUSPENSION OF ADHERENCE FOR NEW PRIMARY OBLIGATIONS

8.01 Suspension Notice[11]

Upon:

(a) a Program Breach;

(b) a default in the performance, or breach, of any covenants of OPG, as FSM, or OPG, in its corporate capacity, in each case to the Province in connection with the Province's provision of the Limited Guarantee, which continues for thirty (30) days after written notice by the Province to the FSM of such default or breach;

(c) a representation or warranty made by OPG or a certification made by one or more officers of OPG, in each case whether as FSM or in its corporate capacity, to the Province in connection with the Province's provision of the Limited Guarantee, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; [12]or

(d) the FSM no longer being the Manager or actions having been taken by or on behalf of the Indenture Trustee to remove the FSM as the Manager,

~~The~~the Province may~~, at any time and for any reason,~~ declare that the Limited Guarantee under this Agreement shall not apply to any ~~Obligation Secured~~Primary Obligations incurred on or after such declaration, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied, by delivering a written notice in the form of Exhibit C (a "**Suspension Notice**") to the Province to the Indenture Trustee, the FSM and the Financing Entity.

8.02 Suspension

If a Suspension Notice has been provided under Section 8.01 (the provision of such notice being a "**Suspension Event**"), the Limited Guarantee shall not apply in respect of any Primary Obligation ~~Secured~~ incurred **[or amended]**[13] on or after the time such Suspension Notice is delivered, other than any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied. For greater certainty, the rights of the Province under Article VI shall apply in respect of ~~all~~the Obligations Secured referenced in Section 6.01, including if incurred **[or amended]** on or after the time such Suspension Notice is delivered.

~~**8.03 Termination Notice**~~

~~On (a) the occurrence of a Suspension Event or (b) the Assumption Effective Date, the Province may provide to the Indenture Trustee, the FSM and the Financing Entity a notice in the form of Exhibit D (a "**Termination Notice**").~~

8.03 ~~8.04~~ No Impact on Adherence

For greater certainty, the occurrence of Suspension Event or a failure by the FSM or the Financing Entity to perform its covenants under this Agreement will not invalidate or extinguish the obligations of the Province under the Limited Guarantee in respect of Approved Obligations in existence prior to the occurrence of the Suspension Event or in respect of any Refinancing of a Primary Obligation in respect of which the Adherence Conditions had previously been satisfied, nor will it in any way impact the Obligations Secured which are assumed by the Province in accordance with ~~Article~~ARTICLE VI.

ARTICLE IX
MISCELLANEOUS

9.01 Term of Agreement

~~This Agreement will continue until the later of:~~

~~(a) the~~ This Agreement will continue until the date that no amount is or may become due and payable by the Province under the Limited Guarantee~~; and~~.[14]

~~(b) the date that a Termination Notice delivered in accordance with Section 8.03 is received by the Indenture Trustee, the FSM and the Financing Entity.~~

9.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to the Financing Entity:

Fair Hydro Trust
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: ~~[■]~~General Counsel
Fax: (416) ~~[■]~~
~~Email: [■]~~592-4189

with copies to:

Computershare Trust Company of Canada, in its capacity as Financing Entity Trustee for Fair Hydro Trust
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1
Attention: ~~[■]~~Manager, Corporate Trust
Fax: (416) ~~[■]~~981-9777
Email: ~~[■]~~corporatetrust.toronto@computershare.com

~~[■]~~

(b) if to the FSM:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: ~~[■]~~General Counsel
Fax: (416) ~~[■]~~592-4189

~~Email: [■]~~

(c) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

Minister of Finance

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

(d) if to the Indenture Trustee:

[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 9.02.

9.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties, except as otherwise provided for herein.

(b) Any purported assignment of this Agreement in violation of this Section 9.03 shall be null and void.

9.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

9.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

9.06 No Petition

The Province agrees, to the fullest extent permitted by applicable law, that at no time until one year and one day following repayment in full of all Primary Obligations shall it commence, or join in commencing, a bankruptcy case or other insolvency or similar proceeding under the laws of any jurisdiction against the Financing Entity.

9.07 Intentionally Deleted

9.08 Third Party Rights

This Agreement is not intended to create rights for any Person not party to this Agreement. Beneficiaries derive their benefits hereunder through the Indenture Trustee and shall be subject to the provisions applicable to Specified Creditors in the Trust Indenture.

9.09 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____
Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC., AS FSM AND AS MANAGER

By: _____
Name:
Title:
By: _____
Name:
Title:

COMPUTERSHARE TRUST COMPANY OF CANADA, IN ITS CAPACITY AS TRUSTEE OF FAIR HYDRO TRUST, AS ISSUER, ~~[~~BY ONTARIO POWER GENERATION INC., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS MANAGER~~]~~[8]

By: _____
Name:
Title:
By: _____
Name:
Title:

BNY TRUST COMPANY OF CANADA, AS INDENTURE TRUSTEE AND NOT IN ITS INDIVIDUAL CAPACITY

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Acceleration**" has the meaning ascribed to the term "acceleration" in the General Regulation.

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Action**" has the meaning ascribed thereto under the Trust Indenture.

"**Adherence Conditions**", means, in respect of ~~a~~the Certified Primary ~~Obligation, means~~Obligations, the conditions set out in Section 4.02.

"**Aggregate Approved Obligations Amount**" means, in respect of a Guarantee Payment Date, the aggregate of the Approved Obligation Amounts for such Guarantee Payment Date.

"**Approved Obligation**" means a Primary Obligation that constitutes an Approved Obligation pursuant to Section 4.01.

"**Approved Obligation Amount**" means, for a Beneficiary in respect of an Approved Obligation under which an amount is due and payable on a Guarantee Payment Date:

(a) if no Acceleration has occurred in respect of any Obligation Secured on or before the Guarantee Payment Date, the amount due and payable to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation (for greater certainty, determined on the assumption that there are adequate amounts available under the applicable payment provisions of the Trust Indenture to pay in full all amounts referred to in such payment provisions that are due and payable on the Guarantee Payment Date); and

(b) if an Acceleration has occurred in respect of any Obligations Secured on or before the Guarantee Payment Date, the amount that would be available to be paid to the Beneficiary on such Guarantee Payment Date in respect of the Approved Obligation under the applicable payment provisions of the Trust Indenture, determined on the assumption that the amount available for allocation to Specified Creditors in accordance with such applicable payment provisions of the Trust Indenture in respect of each relevant month ~~[~~during each Reference Period ~~from and after May, 2021]~~[9] is equal to the ~~[~~estimated ~~finance amount~~Finance Amount determined in respect of such Reference Period ~~pursuant to~~for purposes of section ~~*~~15(1) of the ~~General Regulation (as set forth~~Act (in effect on the date hereof)~~]~~[10]15 divided by the number of months in such Reference Period.

"**Assumption Agreement**" means the agreement among the Province, the Indenture Trustee, the Financing Entity and any other person that is party to the ~~Funding Obligation~~applicable Supplemental Indenture or Loan Agreement affected by the assignment and assumption contemplated under Article VI, which agreement shall be in substantially the form of ~~the form of~~

assumption agreement set forth in ~~Exhibit E.~~the applicable Supplemental Indenture or Loan Agreement.[16]

~~"Assumption Closing Date" has the meaning ascribed thereto in Section 6.01.~~

"**Assumption Effective Date**" has the meaning ascribed thereto in Section 6.03.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.01.

"**Assumption Notice**" has the meaning ascribed thereto in Section ~~6.01. "Available Collections" has the meaning ascribed thereto in the Trust Indenture~~6.01.

"**Beneficiaries**" means the Specified Creditors to whom the Financing Entity owes a payment obligation pursuant to one or more Approved Obligations from time to time.

"**Beneficiary Payee**" has the meaning ascribed thereto in Section 2.01(a)iii.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Capital Account**" has the meaning ascribed to the term "capital account" in the General Regulation.

"**Certified Primary Obligations**" means Primary Obligations that are: (i) incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest or to repay payment obligations that were incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest,[17] (ii) incurred by or on behalf of the Financing Entity upon the Financing Entity entering into a Derivative Agreement, in which case the Certified Primary Obligation therefor shall be the Master Agreement applicable to such Derivative Agreement and not each individual trade confirmation, or (iii) incurred by or on behalf of the Financing Entity upon entering into a contract that has a term of more than three (3) years which is not terminable by the Financing Entity giving three (3) years' notice or less and aggregate payments by the Financing Entity thereunder during the term of such contract is in excess of C$5,000,000 (that, for greater certainty, is not otherwise captured in clauses (i) and (ii) above).[18]

"**Change of Law Protection Agreement**" means this Agreement.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar

transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Eligible Deposit Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Eligible Institution**" has the meaning ascribed thereto in the Trust Indenture.

"**Executive Officer**" has the meaning ascribed thereto in the *Securities Act* (Ontario).[19]

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act as of the date of this Agreement.

"**Finance Reserve Account**" has the meaning ascribed to the term "finance reserve account" in the General Regulation.

"**Financing Entity**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Financing Entity Trustee**" ~~means, at any time, the Person who is, in accordance with~~has the meaning ascribed thereto in the first paragraph of this Agreement until a successor Financing Entity Trustee shall have become such pursuant to the applicable provisions of the Trust Indenture and the Declaration of Trust, ~~the trustee of the~~ and thereafter "Financing Entity ~~at~~Trustee" means and includes such ~~time.~~Person.[20]

Does PW want to amend - any successor ? - do we care ?

"**FSM**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**Funding Obligation Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Guarantee Payment Date**" has the meaning ascribed thereto in Section 2.01(a).

"**Guarantor Settlement Statement**" has the meaning ascribed thereto in Section 2.01(a).

~~"**General Regulation**" means O. Reg. 206/17 made under the Act.~~

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act.

"**Indenture Trustee**" means the Person named as the Indenture Trustee in the first paragraph of this Agreement until a successor Indenture Trustee shall have become such pursuant to the

applicable provisions of the Trust Indenture and this Agreement, and thereafter "Indenture Trustee" means and includes such Person.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Issuer Account**" has the meaning ascribed thereto in the Trust Indenture.

"**Legislature**" means the Legislature of the Province of Ontario.

"**Lien**" has the meaning ascribed thereto in the Trust Indenture.

"**Limited Guarantee**" has the meaning ascribed thereto in Section 2.01(a).

"**Loan Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Management Agreement**" means the management agreement dated [■], 2017 between the Manager and the Financing Entity, as amended, supplemented, restated or otherwise modified from time to time.

"**Manager**" means OPG, in its capacity as manager of the Financing Entity under the Management Agreement.

"**Master Agreement**" means an agreement in the form of an ISDA Master Agreement as published by ISDA or any replacement or substitute or functional equivalent of such agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO, as amended, supplemented, restated or otherwise modified from time to time.

~~"Note" or "Notes" has the meaning ascribed thereto under the Trust Indenture.~~

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OIC**" has the meaning ascribed thereto in the second paragraph of the recitals in this Agreement.

"**OPG**" means Ontario Power Generation Inc., a corporation established under the laws of the Province of Ontario.

"**Original Currency**" has the meaning ascribed thereto in Section 1.19(a).

~~"Paying Agent" has the meaning ascribed thereto in the Trust Indenture.~~

"**Payment Demand**" has the meaning ascribed thereto in Section 2.01(a).

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" means any Obligation Secured (a) that is a Funding Obligation or (b) that otherwise is a payment obligation of the Financing Entity that gives rise to a Finance Amount, in each case other than (i) any amounts required to be deposited by or on behalf of the Financing Entity into any Capital Account~~,~~ or Finance Reserve Account~~, or Supplemental Reserve Account; (ii) any amounts that would be remaining amounts of Available Collections required by the to be held in the Collection Account for distribution on a succeeding Payment Date pursuant to the Trust Indenture; and (iii) any obligation to pay the Trust~~[21]; and (ii) any obligation to pay the Financing Entity or on the ~~Trust~~Financing Entity's direction any remaining amounts ~~of Available Collections.~~in the Collection Account pursuant to the Trust Indenture.[22]

Trust Indenture check

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Program Breach**" means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, **[early amortization event,]** termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.[23]

"**Protection Account**" has the meaning ascribed to such term in Section 2.04(a).

"**Protection Event**" means the occurrence of any of the following events:

(a) (i) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof as in effect on the date hereof;

(ii) the Legislature enacts or amends any other statute;

(iii) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the regulations made under the Act or any portion thereof as in effect on the date hereof; or

(iv) the Lieutenant Governor in Council, a minister of the ~~[~~Crown~~]~~, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*) as in effect on the date hereof;

(v) the implementation of a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or an entity controlled by the Province,

in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured, or (b) this Agreement or any of the agreements under which Obligations Secured arise; or

(b) a court of competent jurisdiction determines that all or a portion of the Act or the regulations made under the Act, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Financing Entity to receive amounts in respect of its Investment Interest so that it can pay Obligations Secured and that has the effect of the Financing Entity not in fact having sufficient funds to pay such Obligations Secured that have become due and payable.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency Condition**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Period**" has the meaning ascribed thereto in the Act.

vit accepted

"**Refinancing**" has the meaning ascribed to the term "refinancing" in the Act as of the date hereof, as more particularly described and given meaning in ~~in~~ the General Regulation as of the date hereof.[24]

~~"**Repayment**" has the meaning ascribed thereto in the General Regulation.~~

"**Second Currency**" has the meaning ascribed thereto in Section 1.19(b).

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Subrogation Amounts**" has the meaning ascribed thereto in subclause 2.01(a)iv(ii).

"**Supplemental Indenture**" has the meaning ascribed in the Trust Indenture.

"**Supplemental Reserve Account**" has the meaning ascribed in the Trust Indenture.

"**Suspension Event**" has the meaning ascribed thereto in Section 8.02.

"**Suspension Notice**" has the meaning ascribed thereto in Section 8.01.

~~"**Termination Notice**" has the meaning ascribed thereto in Section 8.03.~~

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017, as amended, supplemented, restated or otherwise modified from time to time.

EXHIBIT A
FORM OF PAYMENT DEMAND

TO:	Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Reference is made to the Change of Law Protection Agreement dated [■], 2017 among the Province, Computershare Trust Company of Canada, as trustee of Fair Hydro Trust (the "**Financing Entity**"), Ontario Power Generation Inc., in its capacity as Manager of the Financing Entity and in its capacity as the Financial Services Manager under the *Fair Hydro Plan Act, 2017*, and the Indenture Trustee (the "**Change of Law Protection Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Protection Agreement.

Pursuant to and in accordance with section 2.01(a) of the Change of the Law Protection Agreement, the Indenture Trustee hereby demands payment from the Province in respect of the Approved Obligations at the times, in the amounts and subject to the requirements specified in the Change of Law Protection Agreement.

DATED as of the [■] day of [■], [■].

BNY TRUST COMPANY OF CANADA

By: _____
Name:
Title:

By: _____
Name:
Title:

~~**EXHIBIT A.1**~~
~~**FORM OF GUARANTOR SETTLEMENT STATEMENT**~~

EXHIBIT B
ASSUMPTION NOTICE

[NTD: Province to advise whether Assumption option to be pursued. Without concurrence of affected third parties, Blakes suggests that these mechanisms will not provide effective rights and that no further time should be spent in connection with these mechanics since not effective as now contemplated.]

EXHIBIT C
SUSPENSION NOTICE

~~EXHIBIT D~~
~~TERMINATION NOTICE~~

~~EXHIBIT E~~

~~FORM OF ASSUMPTION AGREEMENT~~

[NTD: Blakes will provide draft once Province confirms approach to connecting to the Process Agreement mechanisms. Simpler will be best, although expect that Torys will request representations as to underlying failure.]

Document comparison by Workshare Compare on Monday, November 27, 2017 12:25:04 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239360/17
Description	TOR_2528-#23239360-v17-Change_of_Law_Protection_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239360/19
Description	TOR_2528-#23239360-v19-Change_of_Law_Protection_Agreement
Rendering set	standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	190
Deletions	143
Moved from	9
Moved to	9
Style change	0
Format changed	0
Total changes	351

[1] This Agreement and the Process Agreement will need to be effective on closing but signed and held in escrow as soon as they are settled and prior to pricing of the term deal. **Note to Torys:** Logistics of closing are under consideration.

[2] ~~Torys and Blakes to discuss signatory~~ Please advise if there are any further issues with the Manager signing the Protection Agreement on behalf of the Trust? If so, can you please explain the issue. The Manager is currently signing all Program Agreements on behalf of the Trust and has authority to do so. We would ~~propose to do the same on the change of law agreement~~ like the Manager to sign this Agreement on behalf of the Trust. **Note to Torys:** Manager derives authority under the Management Agreement to sign Program Agreements. Management Agreement powers determined by reference to the Program Agreements, so authority is circular. Ultimately, Province will accept the opinion of Torys on due execution point.

[3] ~~Torys to confirm that Trust is a "financing entity" under OFHPA. Under definition, FSM to establish or cause to be established. DofT indicates Computershare declares trust. Need to have this confirmed for purposes of authority under OFHPA 5(3), among other things~~ We are comfortable on this point because OPG has retained Computershare as issuer trustee. The recitals of the Declaration of Trust provide that Computershare has established the Trust at the request of the FSM. We can also provide you with a copy of the Computershare engagement letter upon request. **Note to Torys:** The Province will accept authorities opinion regarding the Trust from Torys.

[34] **Note to Torys:** Mechanics of Protection Account ~~to be considered by Province after required modifications to~~ in revised Trust Indenture ~~have been provided~~ under consideration.

[4] ~~A corresponding provision needs to be added to the Trust Indenture and each other Funding Obligation Agreement under which the Obligation Secured arises, so that the Beneficiaries are bound by these applications and the agreement of the Indenture Trustee under this Agreement.~~

[5] **Note to Torys:** Revised Trust Indenture under review. The Trust Indenture requires a corresponding provision to the above so Province can determine that Beneficiaries are bound.

[6] **Note to Province:** Torys has removed the ability of the Province to assume all Financing Entity obligations and dismantle the Fair Hydro structure. The Limited Guarantee can no longer be discontinued on assumption of all obligations by the Province. To be discussed.

[5] ~~Dealers to explain how the current structure requiring satisfaction of the adherence conditions in the Protection Agreement is more onerous than ordinary adherence conditions applicable to government guaranteed bonds and to estimate the quantum impact on the marketability of the transaction and explain what uncertainty an ordinary closing condition of this type poses for investors.~~

[7] **Note to Province:** Technically, no certifications to the Province are required only with incurrence. Language has been added to clarify that the certificate states that all certifications required in connection with adherence have been delivered. The change proposed by Torys must be evaluated in light of the changes they have contemplated be made to the certificate requirements in the Process Agreement. Soft linkage must not derogate from the need for OPG to deliver the full-bodied certificate on incurrence and amendment, as contemplated to date under the Process Agreement.

incurrence

[6] ~~Section to be updated to conform with section in the Trust Indenture once settled.~~

[8] **Note to Province:** Assumption election to be discussed. The Torys version provides no basis for the Province to be able to count on an ability to step in and effectively replace the Trust. This "option" is now without substance.

[9] It is not realistic to think that the assumptions of Secured Obligations will all occur on one day. We think it has to happen on a contract by contract basis. As a Secured Obligation is assumed, the Limited Guarantee falls away with respect to it (it becomes a "zero" item in the waterfalls). **Note:** The option is only effective if there are pre-agreed means to compel the mechanism opposite noteholders and other third parties.

[7] ~~Further details regarding obtaining of third party consents and rating agency approvals to be provided by OPG.~~

[10] The Indenture Trustee asked us to delete these representations. They will not provide these types of representations without attaining a legal opinion from outside counsel. To avoid delay, we would ask that the

parties agree to this deletion. **Note:** The representations provided by the Indenture Trustee should be consistent with those in the Trust Indenture.

[11] **Note to Province:** Section 8.01 requires careful consideration. Torys has deleted the provision in the Process Agreement that outlines specifically what the Breach Events are and inserted this language into the Protection Agreement that does not match (or adequately describe) the agreed upon "Breach Events" previously set out in the Process Agreement. In the revisions, regard was not had for the fact that OPG (in its corporate capacity) is signing the Process Agreement. The revisions also do not link the breach of covenants to the Limited Guarantee (technically, OPG doesn't have obligations to the Province in connection with incurrence of obligations if it does not seek the Limited Guarantee). If "Breach Event" is not to be defined in the Process Agreement, then there is no document that expressly states that a breach of the Process Agreement triggers the suspension right. "Breach Events" must be described precisely. Query whether "Breach Event" can be adequately described in the Protection Agreement if the Protection Agreement cannot reference the Process Agreement.

[12] **Note to Province**: Need to consider acceptability of soft linkage, in order to accommodate dealer desire to avoid cross-link to Process Agreement. Uncertain why cross-link is a problem for dealers or OPG – may want to test further, since this relates to the arrangements only between OPG and the Province and so confidentiality situation is no worse for them since exercise will require demonstration of the existence and terms of the Process Agreement. It is much better to make the connection clear in the Protection Agreement and avoid a contest to prove terms, in the face of detrimental reliance claims from noteholders.

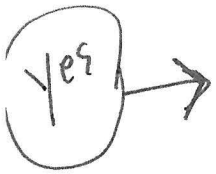
[13] We will need the ability to amend the Primary Obligations after a Suspension Notice to deal with the Suspension Notice itself. **Note to Province:** Drafting would allow an obligation to be amended following a Suspension Notice.

[14] **Note to Province**: Consider whether Termination Notice concept now deleted adds any real value to the Province in the circumstances.

~~[8] To be discussed.~~

~~[9] What about earlier periods? Are the earlier periods covered at all, or is the intention that they would be determined without regard to the acceleration mechanics of the Regulation?~~

~~[10] This needs to tie into the "estimated finance amount" determined under the General Regulation applicable during the Reference Period~~[15] **Note to Province**: MOE should confirm that this captures the limitations contemplated in connection with any "acceleration" under the revised Regulation. Consider whether it is necessary to refer specifically to the Regulation to avoid any disconnect, and to tie-in specifically to the context of the acceleration scenario applicable at the time.



[16] **Note to Province:** Assumption election to be discussed.

[17] **Torys Query**: For a warehouse facility, does the Province want a Certificate for each monthly draw?

[18] **Note to Province**: Torys suggests that this concept reflects what Primary Obligations the parties agreed to be subject to the adherence conditions. Province to confirm that this is their understanding from meeting on Tuesday, November 21.

[19] **Note to Province:** Province to confirm that scope is acceptable.

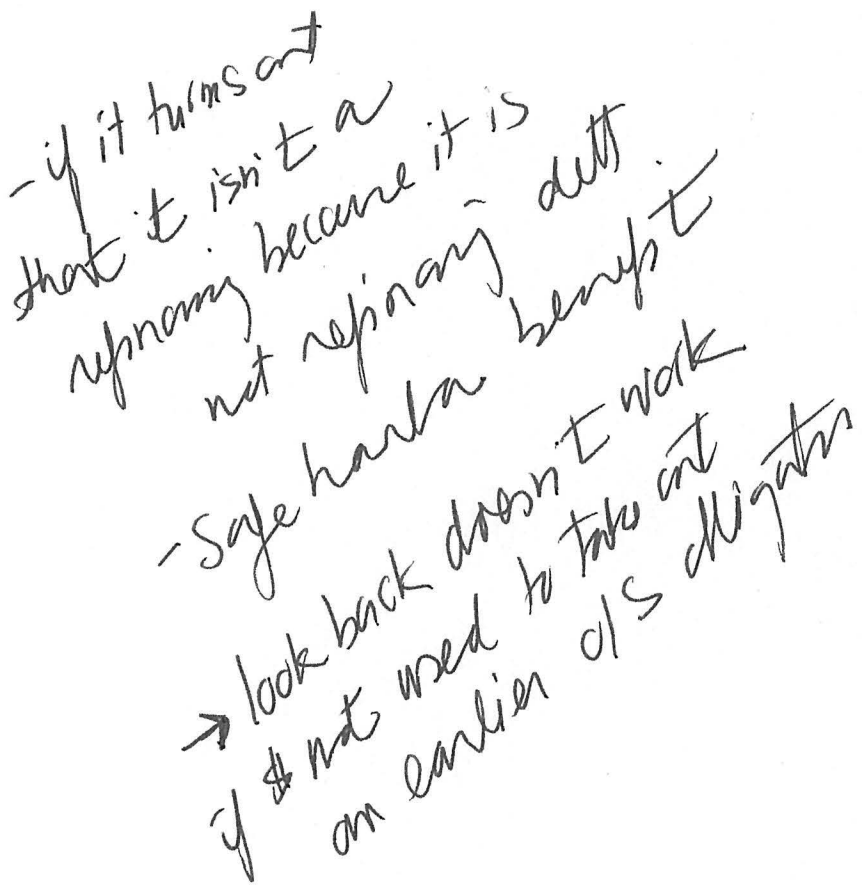
[20] **Note to Province:** Torys says that they are merely conforming this definition to the definition of Indenture Trustee. Province to consider whether a change in the Issuer Trustee has broader implications to it with the result that the Province would need a say regarding the replacement of the Issuer Trustee (i.e., the assumption of the obligations under this Agreement would need to be contemplated in any further process of this sort).

[21] **Note to Torys**: Please explain basis for deletion of reference to Supplemental Accounts, if they are permitted under the Trust Indenture.

[22] These changes were made to conform to the most current version of the Trust Indenture, a copy of which will be circulated soon. Additionally, money in the Collection Account is required to flow through the waterfall and is not required to be held in the Collection Account otherwise.

[23] We deleted early amortization events because that is no longer a concept used in the Trust Indenture.

[24] Refinancings can occur up to six months prior to the application of the refinancing proceeds to the existing obligation. The regulations provide that if the refinancing proceeds are not applied to repay the intended funding obligation, then it is not a Refinancing. Accordingly, we have revised the definition to ensure that Refinancings do not have to be simultaneous with repayment of the existing Approved Obligation (we understand from the dealers that in most circumstances they will not be). **Note to Province**: The General Regulation specifically provides that debt can be considered a "Refinancing" when incurred within the 6 months prior to the maturity date of a funding obligation. The Act/Regulation's definition doesn't require that "Refinancings" are simultaneous with the repayment of existing Approved Obligations. Consider if further discussion is required and MOE to specifically confirm understanding of the Regulation on this point.



~~Draft~~Blakes: November ~~21,~~26, 2017

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT[1]

Dated as of [■], 2017

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**") is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.[1]

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.[2]

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Primary Obligations ~~Secured~~ that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions.

Prior to entering into this Agreement, OPG provided the Province with the proposed forms ~~of certain~~ of the Transaction Documents listed on Exhibit "A", and the Province has not objected to such forms. [and has confirmed to OPG that such Transaction Documents constitute "Reference Documentation" for purposes of this Agreement.][2]

Prior to entering into this Agreement, OPG, as the FSM, provided the Province with the initial Financing Plan attached hereto as Exhibit "B" (the "**Initial Financing Plan**")[3], and the Province has not objected to such Initial Financing Plan.[4]

Prior to entering into this Agreement, OPG, as the FSM, provided to the Province (i) the initial forecast attached hereto as Exhibit "C" (the "**Initial Forecast**") setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the 24 month period following the date hereof (the "**Initial Forecast Period**"); and (ii) notice of the initial Protection Agreement Maximum of C$■ (the "**Initial Protection Agreement Maximum**").[5]

The Province has not objected to the Initial Forecast and the Initial Protection Agreement Maximum [on the basis that (i) there does not appear to be inaccuracies in the Initial Financing Plan or the Initial Forecast, (ii) the Initial Forecast is consistent with the Initial Financing Plan, and (iii) the Initial Protection Agreement Maximum is less than the Initial Forecast.][6]

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied, maintaining information related to the Program Agreements and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL

LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF OPG

2.01 Deliveries to the Province

Initial Plan is attached

(a) ~~Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province a copy of the initial Financing Plan. Thereafter,~~ OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Initial Financing Plan.

(b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to (i) any proposed change or supplement to a previously provided Transaction Document becoming effective or otherwise being used, (ii) any additional or replacement Transaction Document becoming effective or otherwise being used, OPG shall deliver to the Province a copy of such proposed change or supplement to the Transaction Document and any such additional or replacement Transaction Document.

(c) Promptly following (i) any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor being made, (ii) any new, additional or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments.

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

(v) not (unless waived by the Province):

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any change in particular financial terms, rates and levels;

(B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to the extent that only particular financial terms, rates and levels are affected[3];

(C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired~~.~~; or

(D) [allow the Financing Entity to enter into any Supplemental Indenture or Loan Agreement where any penalty or make-whole payment, or any requirement for further consent, approval or agreement, of the Specified Creditor party thereto would be required for the Province to assume the Obligations Secured thereunder.][7]

(b) OPG shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

(ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;

(iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

(iv) after the occurrence of any Protection Event ~~(or any event that with the passage of time or the giving of notice would be a Protection Event)~~[8], not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

(c) Nothing in this Agreement ~~[nor in the Change of Law Protection Agreement]~~ shall limit the obligations of the Province under the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") and to the extent of any conflict between this Agreement~~, the Change of Law Protection Agreement~~ and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify OPG, the Indemnity Agreement shall prevail.

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate[59]

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG ~~(or their respective designees, provided that such designees are also executive~~or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on ~~the earlier of (i) one Business Day prior to~~or before the incurrence or ~~any~~ amendment of a ~~Funding~~Certified Primary Obligation (~~other than any Funding Obligation under which not more than $[redacted] in the aggregate may become payable by the Financing Entity), and (ii) on the Business Day on which the financial terms of such Funding Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities~~provided that delivery may not be more than 5 Business Days before the incurrence of the

Certified Primary Obligation), setting out the following with respect to such ~~Funding~~Certified Primary Obligation:

(a) the material terms of the ~~Funding~~Certified Primary Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a ~~Derivative Agreement, the notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights~~Master Agreement[10], events of default, termination events and any amendment to the standard terms of the Master Agreement relating to the calculation of termination amounts (and, for greater certainty, it shall not be necessary to set out the terms of any trade confirmation)[11];

~~(b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;~~

[**Note to Province:** Torys has deleted the obligations for OPG to provide information and related cross-checks on amendments. Blakes suggests that these be reinserted. The Torys explanation is based on an illogical extension of the deletion of amendments from the Adherence Conditions. Blakes suggests that the Province/MOE tell OPG to stop trying to dilute the agreed upon processes and protection on which the delegation (blind) to OPG has been based.]

(b) ~~(c)~~ a statement to the effect that: (i) the ~~Funding~~Certified Primary Obligation to be incurred **[or amended]** (1) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;

(c) ~~(d)~~ a statement confirming that any disclosure made in respect of the ~~Funding~~Certified Primary Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the ~~Funding~~Certified Primary Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;

(d) ~~(c)~~ a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(e) ~~(f)~~ confirmation that, at the time the ~~Funding~~Certified Primary Obligation is incurred **[or amended]**, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the ~~Funding~~Certified Primary Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the then applicable Protection Agreement Maximum; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on the date the Process Certificate is delivered hereunder in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 ~~Delivery of a Suspension Notice~~ Acknowledgement[12]

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section ~~8.01~~3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in Subsection **[4.02(b)]** of the Change of Law Protection Agreement~~, the Province is entitled to deliver a Suspension Notice. The Province agrees not to deliver a Suspension Notice pursuant to Section 8.01~~ to the Indenture Trustee confirming that OPG has delivered all required certifications to the Province in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in Subsection **[4.02(b)]** of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under Subsection **[4.02(b)]** of the Change of Law Protection Agreement ~~unless any of the following circumstances has occurred:~~other than in connection with a Refinancing of a Primary Obligation in respect of which the Aderence Conditions ahad been satisfied at the time such Primary Obligation was incurred.[13]

~~(a) a Program Breach; and~~

~~(b) a Breach Event.~~

cross reference Schedule A"

3.03 Meaning of "Reference Documentation"

For the purposes of Subsection 3.01(~~e~~b), the term "Reference Documentation" shall mean each Transaction Document (including any change, addition or supplement thereto) that, at the relevant time:

(a) is a Transaction Document provided to, and not objected to by, the Province prior to the making of this Agreement, as contemplated in the fifth recital to this Agreement; or

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province.

3.04 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(~~e~~b), the term "Substantially in the Form" shall mean:

(a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to **[Section 5.01 or Article VI]** of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation or upon the assumption of obligations in accordance with **[Article VI]** of the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reference Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reference Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(b) with respect to the Reference Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum[14]

~~(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province: (i) a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice of the initial Protection Agreement Maximum, which may not exceed the Initial Forecast.~~

~~(b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan, or (iii) the initial Protection Agreement Maximum is not less than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province.~~

(a) ~~(c)~~ Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast.

(b) ~~(d)~~ Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(~~e~~a), the Province may disagree with such further Forecast or revised Protection

Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is ~~not less~~more than the further Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(c) ~~(e)~~ For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
PROCESS FOR ELECTION TO ASSUME APPROVED OBLIGATIONS[6]

6.01 Election by the Province

Pursuant to Section 6.01 of the Change of Law Protection Agreement, at any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) elect to assume the Financing Entity's obligations in respect of all Obligations Secured, permitted to be assumed by their terms as obligor and debtor by giving notice to the Indenture Trustee. Prior to determining whether or not to exercise its election, the Province may deliver to OPG a notice in the form of Exhibit A"D" (an "**Election Information Notice**"). The Election Information Notice shall, among other things, specify the date or dates on which the Province proposes to assume the Obligations Secured referred to in this Section 6.01, which date or dates shall be no earlier than 20 Business Days60 days[7] following delivery of the Election Information Notice to OPG (with respect to each such Obligation Secured, the "**Proposed Assumption Date**").

6.02 Details regarding Obligations Secured

PromptlyWithin 10 Business Days following the delivery of the Election Information Notice to OPG, OPG shall provide the following information and documentation to the Province:

(a) a summary of the amounts that will be owing under allthe Obligations Secured referred to in Section 6.01 as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under thesuch Obligations Secured;

(b) a summary of the rights arising under the Obligations Secured referred to in Section 6.01 that permit the Financing Entity to assign theProvince to assume such Obligations Secured to the Province, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;

(c) current versions of all documentation under which the Obligations Secured referred to in Section 6.01 arise;

(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured referred to in Section 6.01 by the Province; and

(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement.

6.03 Settlement of Terms

Following receipt and consideration by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether or not it expects to proceed with the assignment and assumption of the Obligations Secured referred to in Section 6.01 and, if it will be proceeding with the assignment and assumption, the date on which the Province expects that assignment and assumption will be effected. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section [6.01] of the Change of Law Protection Agreement. A decision not to proceed with an election at any time will not limit the Province from proceeding with an election at a later date, including by issuing a further Election Information Notice, and Article VI of this Agreement shall continue to apply unaffected.

6.04 Cooperation to Implement the Assignment and Assumption

OPG shall cooperate with the Province and, as FSM, shall use commercially reasonable efforts to cause the Financing Entity to cooperate, and shall use its commercially reasonable efforts, to complete the assignment and assumption of the Obligations Secured referred to in Section 6.01 by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.

~~**6.05 Terms of Obligations Secured**~~

ARTICLE VII~~In order to permit the Province to assume the Obligations Secured in the circumstances contemplated herein, OPG, as FSM, shall cause the Financing Entity to use commercially reasonable efforts to ensure that all Obligations Secured permit such an assignment to and assumption by the Province substantially in accordance with the terms and on the basis contemplated in the Assumption Agreement, without any penalty or make-whole payment, or any requirement for further consent, approval or agreement, or alternatively, in the case of any Obligations Secured entered into by or on behalf of the Financing Entity for the provision of~~

~~on-going services to the Financing Entity permitting the satisfaction and termination of such Obligations Secured on or prior to the effective time of such assumption without any acceleration of future fees, profits or other like amounts, other than to the extent of payment obligations that arise under market standard mark-to-market payment terms and conditions included on a commercially reasonable basis under a Derivative Agreement.~~[718]

~~ARTICLE VII~~
~~BREACH EVENTS~~

~~7.01 Breach Events~~

~~"Breach Event" shall mean the occurrence or existence of any one or more of the following:~~

~~(a) a default in the performance, or breach, of any covenants of OPG under this Agreement, which continues for thirty (30) days after written notice by the Province to OPG of such default or breach;~~

~~(b) any representation or warranty made by OPG in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Section [4.02] of the Change of Law Protection Agreement, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or~~

~~(c) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.~~

~~ARTICLE VIII~~
~~MISCELLANEOUS~~
MISCELLANEOUS

7.01 ~~8.01~~ Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 ~~8.02~~ Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the

addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: ~~[■]~~General Counsel
Fax: (416) ~~[■]~~592-4189
~~Email: [■]~~

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section ~~8.02~~7.02.

7.03 ~~8.03~~ Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section ~~8.03~~7.03 shall be null and void.

7.04 ~~8.04~~ Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.05 ~~8.05~~ FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

7.06 ~~8.06~~ Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as trustee of **FAIR HYDRO TRUST**, as Issuer, by **ONTARIO POWER GENERATION INC.**, not in its individual capacity but solely as Manager

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS[19]

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Assumption Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" means the occurrence ~~or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of the FSM under this Agreement; or (b) any representation or warranty made by the FSM, any certification made by the FSM under this Agreement, or any certification made by the FSM in a certificate contemplated by Section 4.03~~ of an event described in Section **[8.01(b) or (c)]** of the Change of Law Protection Agreement~~, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM or the Manager~~.[20]

~~has the meaning aseribed thereto in Section 7.01.~~

~~"**Breach Event Suspension Notice**" has the meaning aseribed thereto in Section 7.02.~~

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Certified Primary Obligations**" means Primary Obligations that are payment obligations that are: (i) incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest or to repay payment obligations that were incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest,[21] (ii) incurred by or on behalf of the Financing Entity upon the Financing Entity entering into a Derivative Agreement, in which case the Certified Primary Obligation therefor shall be the Master Agreement applicable to such Derivative Agreement and not each individual trade confirmation, or (iii) incurred by or on behalf of the Financing Entity upon entering into a contract that has a term of more than three (3) years which is not terminable by the Financing Entity giving three (3) years' notice or less and aggregate payments by the Financing Entity thereunder during the term of such contract is in excess of C$5,000,000 (that, for greater certainty, is not otherwise captured in clauses (i) and (ii) above).[22] **[Definition to be conformed to Protection Agreement once discussed.]**

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Election Information Notice**" has the meaning ascribed thereto in Section 6.01. **[Confirm/conform]**

"**Executive Officer**" has the meaning ascribed thereto in the *Securities Act* (Ontario).

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" ~~means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time.~~has the meaning ascribed thereto in the Change of Law Protection Agreement. **[See Protection Agreement cautions.]**

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(~~e~~a).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Financing Plan**" has the meaning ascribed thereto in the recitals of this Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in ~~Section 4.01(a)~~the recitals of this Agreement.

"**Initial Forecast Period**" has the meaning ascribed thereto in ~~Section 4.01(a)~~the recitals of this Agreement.

"**Initial Protection Agreement Maximum**" has the meaning ascribed thereto in the recitals of this Agreement.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

~~"**Legislature**" means the Legislature of the Province of Ontario.~~

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Loan Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Master Agreement**" means an agreement in the form of a 1992 ISDA Master Agreement (Multi-Currency – Cross Border) as published by ISDA or any replacement or substitute or functional equivalent of such agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

~~"**Program Breach**" means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.~~

"**Proposed Assumption Date**" has the meaning ascribed thereto in Section 6.01.

"**Protection Agreement Maximum**" means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Article IV.

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Documentation**" has the meaning ascribed thereto in Section ~~3.03.~~3.03.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Substantially in the Form**" has the meaning ascribed thereto in Section ~~3.04.~~3.04.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to ~~an ISDA~~a Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

EXHIBIT "A
~~FORM OF ELECTION INFORMATION NOTICE~~"
INITIAL REFERENCE DOCUMENTATION

[INSERT DRAFT DATES SO THAT RELEVANT DOCUMENTS CAN BE ASCERTAINED]

[AGREEMENTS IN YELLOW HAVE NOT BEEN PROVIDED TO DATE. PROVINCE TO PROVIDE GUIDANCE BASED ON INTENTIONS TO REVIEW DOCUMENTS AND RELATED INTERNAL PROCESSES, IF ANY]

- Declaration of Trust;
- Management Agreement;
- Master Transfer and Servicing Agreement;
- Acknowledgement and indemnity agreement dated as of [■], 2017 made by IESO in favour of the Indenture Trustee;
- Security agreement made by IESO in favour of the Financing Entity to secure certain of its obligations under the Master Transfer and Servicing Agreement;
- Trust Indenture;
- Term Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Term Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Term Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Warehouse Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Warehouse Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Warehouse Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Schedule to the ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time;
- Confidential shelf offering memorandum of the Financing Entity dated as of [■], 2017, including the term sheet incorporated by reference therein; and
- Agency agreement between the Financing Entity, CIBC World Markets Inc., RBC Dominion Securities Inc., Goldman Sachs Canada Inc. and the other agents named therein dated as of [■], 2017.

[NTD: List above to be confirmed.]

±

EXHIBIT "B"
INITIAL FINANCING PLAN

(see attached)

EXHIBIT "C"
INITIAL FORECAST

(see attached)

EXHIBIT "D"
FORM OF ELECTION INFORMATION NOTICE

[NTD: Blakes to provide draft.]

~~**EXHIBIT B**~~
~~**FORM OF BREACH EVENT SUSPENSION NOTICE**~~

Document comparison by Workshare Compare on Monday, November 27, 2017 12:27:00 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239361/14
Description	TOR_2528-#23239361-v14-Change_of_Law_-_Process_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239361/16
Description	TOR_2528-#23239361-v16-Change_of_Law_-_Process_Agreement
Rendering set	standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	180
Deletions	119
Moved from	8
Moved to	8
Style change	0
Format changed	0
Total changes	315

[1] This Agreement and the Protection Agreement will need to be effective on closing but signed and held in escrow as soon as they are settled and prior to pricing of the term deal. **Note to Torys:** Closing mechanics under consideration by the Province.

[1] ~~Blakes suggests that it be made clear in the Declaration of Trust that OPG is establishing the Trust. Blakes would appreciate the benefit of Torys analysis as to how the Trust is an "entity" under the OFIPA, as opposed to the trustee. Clearly OPG has not established Computershare. Blakes and Torys to discuss.~~

[2] ~~Lawyers to discuss.~~

[2] **Note to Province**: Please confirm authority and whether internal "non-disapproval" process will be sufficient.

[3] **Note to Province**: By annexing the Financing Plan, it will become part of the documentation package and so essentially a public document. Is this what the Province is anticipating?

[4] **Note to Province**: Province to confirm approach to non-disapproval.

[5] Given that this Agreement would now be delivered on or immediately prior to closing, we thought it would be acceptable to reference these initial items as delivered versus as future deliverables. Please note that OPG is working with the Province to deliver the initial financing plan and the initial forecast and to confirm the initial protection agreement maximum. **Note to Province:** Province to respond to various Torys footnotes in relation to process matters.

[6] **Note to Province**: Delete or conform to standard of non-disapproval. This should not attribute process where such matters are not consistent with actual practices.

[3] ~~Added to address the scenarios contemplated in 2.01(e).~~

[7] Please see our cover note regarding the proposed assumption by the Province. Lawyers to discuss if appropriate mechanics for the first two deals are possible given timing. **Note to Province:** This was moved from Article 6.05 to here. Torys deleted language in relation to OPG's covenant to enter into contracts with service providers that permit termination on or prior to the time of assumption without acceleration of future fees, profits or other like amounts, other than to the extent of payment obligations that arise under market standard mark to market payment terms and conditions included on a commercially reasonable basis under a Derivatives Agreement. This was deliberate, and coincides with the hollowing out of the assumption "option". Before marking any of this up in detail, the Province needs to advise whether the assumption scenario (e.g., through defeasance, as previously described and discussed) will be included going forward if there is no real certainty regarding execution in the future – basically, an agreement based on the possibility of a future agreement – which is of no real value.

[8] **Note to Province:** Torys says "OPG is not in a position to be aware of events that may lead to a Protection Event. Note that Torys deleted "after the occurrence of any Protection Event ~~(or any event that with the passage of time or giving of notice would be a Protection Event)~~"". Torys' suggestion to be considered, although the fact is that events known prior to lapse of cure periods should be relevant for the purposes of blocking activities that may later be prejudicial to the Province.

[4] ~~This language has extra-contractual implications and so its meaning as between only 2 of the parties to the Protection Agreement is uncertain. Torys to explain intention.~~

[5] ~~OPG/Dealers have indicated that "The current structure requiring satisfaction of the adherence conditions in the Protection Agreement impacts the marketability of the transaction and creates uncertainty for investors. Province has asked Dealers to explain how the current structure requiring satisfaction of the adherence conditions in the Protection Agreement is more onerous than ordinary adherence conditions applicable to government guaranteed bonds and to estimate the quantum impact on the marketability of the transaction and explain what uncertainty an ordinary closing condition of this type poses for investors~~[9] The Process Certificate conforms to the certificate delivered under the Change of Law Protection Agreement including the changes to ensure that the Process Certificate is only provided here when a concurrent certificate is required to be delivered by OPG under the Protection Agreement. Without this consistency, the obligations can become confusing and the intent of the parties of when Primary Obligations are subject to the adherence

conditions may not be clear. **Note to Province:** This significantly cuts back on when the Province would receive Process Certificates from OPG. The Province would still receive closing books after the fact. To be discussed whether Province should require a process where they receive a certificate for all incurrences or amendments of obligations above a certain monetary threshold (as in previous draft). In effect, Torys is saying that the Province's rights against OPG should be watered down, to be consistent with the soft-link that the dealers and OPG have asked for between the agreements – this does not make sense and should not be accepted by the Province.

[10] Since we agreed at our meeting that OPG only needs to provide a certificate under section 4.02 of the Change of Law Protection Agreement when they enter into a Master Agreement (and not the broader concept of the Derivative Agreement), we had to revise the language here to conform to what would be expected to be found in a Master Agreement. **Note to Province**: This is not accurate. We mentioned that the Province was thinking about limiting to the ISDA Master, as a compromise. No commitment was made to do so.

[11] **Note to Province**: This needs to be considered in detail. Covenants, margin conditions, notice and delivery requirements, changes to standard terms, etc., could also be relevant.

[12] OPG needs certainty on the conditions in which it is permitted to deliver the certificate under the Change of Law adherence conditions.

[13] Since OPG receives a Suspension Notice under the Change of Law Protection Agreement, we removed the concept of such notice here other than to provide the covenant above. **Note to Province**: These changes obfuscate the previously clear link where the Province was entitled to receive the Process Certificate, and that was the certificate that the Protection Agreement referred to. This seems circular and could prejudice the exercise of Suspension Rights based on the dilutions promoted by Torys in this draft on the basis that they are required in connection with a soft link. Blakes suggests that the prior version of the Process Agreement be insisted on opposite OPG – and the dealers should have no objection or interest in the matter.

[14] **Torys**: Per an earlier footnote, the items in previous draft (a) and (b) were moved to the recitals. **Note to Province**: Need to land on process matters, including timing, logistics, authorities, lead time to review, etc. The approach now incorporated removes the expectations that the Province will have received these key documents (under earlier procedures, not moved to the recitals) prior to settling on the form of the agreements.

[6] ~~Note: Lawyers to discuss assumption mechanics~~[15] Please see Torys' cover email to explain changes made in this Article and the related Article in the Protection Agreement. Section 6.05 was deleted and moved up as a covenant in section 2.02(a)(v)(D). **Note to Province:** Assumption election to be discussed.

[16] **Note to Province**: Direction required to determine approach to "assumption" option. No value in addressing the proposed changes unless Province is prepared to contract on a firm basis in relation to the "assumption" provisions. The deletion of the efforts to ensure all obligations are terminable at the option of the Province upon a Protection Event render this "option" valueless.

[17] This process will take time and require appropriate notice to holders of the applicable Obligations Secured.

[7] ~~The Trust Indenture will need to be revised to ensure that the Province's assignment and assumption right is fully contemplated and may be implemented without any requirement for further Specified Creditor or other third party consents. Among other changes, it is contemplated that Torys will add the following to the MTI to address this requirement: (i) Specified Creditors (including in the applicable Funding Obligation Agreement) will be required to acknowledge the rights of the Province to assume the Obligations Secured on the basis contemplated in the form of assumption agreement, and (ii) the Indenture Trustee will be permitted to enter into and give effect to the global Assumption Agreement without the consent of Specified Creditors or any other third parties~~[18] Breach events not required to be listed since OPG receives a Suspension Notice under the Change of Law Protection Agreement. See also the proviso in section 3.02. **Note to Province:** The Breach Events are not adequately described in the Change of Law Protection Agreement. Approach to be discussed.

[19] Various changes made in Torys draft will need to be conformed once issues are settled in the Protection Agreement. See Blakes version 18 for previous language and conform.]

[20] **Note to Province:** Opaque drafting. Exercise of suspension right may be impeded by uncertainty.

[21] Query: For a warehouse facility, does the Province want a Certificate for each monthly draw?

[22] This concept reflects what Primary Obligations the parties agreed to be subject to the adherence conditions. **Note to Province:** Please confirm if this reflects your understanding from the meeting on Tuesday, November 21.

[23] Definition of Legislature not used here.

(1) Non-disapproval →

(2) mechanics –

(3) → documents

(4) assumptions / terminally assignment

(5) after default prior to cure

(6) ~~of~~ process cert – revert –
- will apply to amounts
- broadly → certifier

(7) list of agts

Schedule "A"

→ junior warehouse
→ jurisdiction
→ agency agt

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT[1]

Dated as of [■], 2017

[1] This Agreement and the Protection Agreement will need to be effective on closing but signed and held in escrow as soon as they are settled and prior to pricing of the term deal. **Note to Torys:** Closing mechanics under consideration by the Province.

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**") is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.[1]

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.[2]

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions. how can we identify them

Prior to entering into this Agreement, OPG provided the Province with the proposed forms of certain of the Transaction Documents, and the Province has not objected to such forms.

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied, maintaining information related to the Program Agreements and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, have been done.

Did not agree with suggested revisions

~~[1] Blakes suggests that it be made clear in the Declaration of Trust that OPG is establishing the Trust. Blakes would appreciate the benefit of Torys analysis as to how the Trust is an "entity" under the OPHPA, as opposed to the trustee. Clearly OPG has not established Computershare. Blakes and Torys to discuss.~~

~~[2] Lawyers to discuss.~~

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". The word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. The words "herein", "hereof" and "hereunder" and other words of similar import refer to this

Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF OPG

2.01 Deliveries to the Province

reverted to original

(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province a copy of the initial Financing Plan. Thereafter, OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to (i) any proposed change or supplement to a previously provided Transaction Document becoming effective or otherwise being used, (ii) any additional or replacement Transaction Document becoming effective or otherwise being used, OPG shall deliver to the Province a copy of such proposed change or supplement to the Transaction Document and any such additional or replacement Transaction Document.

(c) Promptly following (i) any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor being made, (ii) any new, additional or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments.

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

OK ✓ (v) not (unless waived in writing by the Province):

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any change in particular financial terms, rates and levels;

(B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to the extent that only particular financial terms, rates and levels are affected[3];

(C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired; or

are we leaving this in.

(D) allow the Financing Entity to enter into any Supplemental Indenture or Loan Agreement where any penalty or make-whole payment, or any requirement for further consent, approval or agreement, of the Specified Creditor party thereto would be required for the Province to assume the Obligations Secured thereunder.

(b) OPG shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

(ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;

[3] ~~Added to address the scenarios contemplated in 2.01(e).~~

(iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

OK ✓

(iv) after the occurrence of any Protection Event (or any event known to OPG that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

(c) Nothing in this Agreement ~~[nor in the Change of Law Protection Agreement][4]~~ shall limit the obligations of the Province under the Indemnity Agreement by the Province in favour of OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") and to the extent of any conflict between this Agreement~~, the Change of Law Protection Agreement~~ and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify OPG, the Indemnity Agreement shall prevail.

ARTICLE III
PROCESS CERTIFICATE

✓ Do not agree to narrow scope in process ag I revert to review

3.01 Process Certificate[5]

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG ~~(or their respective designees, provided that such designees are also executive~~or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on ~~the earlier of (i) one Business Day prior to~~or before the incurrence or any amendment[2] of a Funding Obligation, ~~(~~other than any Funding Obligation under which not more than $[redacted] in the aggregate may become payable by the Financing Entity~~), and (ii) on the Business Day on which the financial terms of such Funding Obligation are definitively determined (including the interest or discount rate applicable to any notes, bonds or other securities~~ (provided that delivery may not be more than 5 Business Days before the incurrence or

~~[4] This language has extra-contractual implications and so its meaning as between only 2 of the parties to the Protection Agreement is uncertain. Torys to explain intention.~~

~~[5] OPG/Dealers have indicated that "The current structure requiring satisfaction of the adherence conditions in the Protection Agreement impacts the marketability of the transaction and creates uncertainty for investors. Province has asked Dealers to explain how the current structure requiring satisfaction of the adherence conditions in the Protection Agreement is more onerous than ordinary adherence conditions applicable to government guaranteed bonds and to estimate the quantum impact on the marketability of the transaction and explain what uncertainty an ordinary closing condition of this type poses for investors.~~

[2] **Note to Province:** Please confirm that the timing of the delivery of the Process Certificate is satisfactory to you. The Process Certificate is delivered "on or before" incurrence or amendment. If preferable, we can revert back to the prior timing, which was delivery on the earlier of incurrence/ amendment, or pricing.

Need to discuss this ✱

amendment of the Funding Obligation), setting out the following with respect to such Funding Obligation:

(a) the material terms of the Funding Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, the notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

they took obligation to provide cert on amendment

(b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement to the effect that: (i) the Funding Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;

(d) a statement confirming that any disclosure made in respect of the Funding Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the Funding Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;

(e) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(f) confirmation that, at the time the Funding Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Funding Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the then applicable Protection Agreement Maximum; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on

OK

the date the Process Certificate is delivered hereunder in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 ~~Delivery of a Suspension Notice~~ Acknowledgement regarding delivery of certificate under Change of Law protection Agreement

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section ~~8.01~~3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in **[Subsection 4.02(b)]** of the Change of Law Protection Agreement~~,~~ to the Indenture Trustee confirming that OPG has delivered all required certifications to the Province in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in **[Subsection 4.02(b)]** of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under **[Subsection 4.02(b)]** of the Change of Law Protection Agreement other than in connection with a Refinancing of a Primary Obligation in respect of which the Adherence Conditions had been satisfied at the time such Primary Obligation was incurred.

~~3.03~~ Acknowledgement regarding delivery of Suspension Notice

The parties acknowledge and agree that the Province is entitled to deliver a Suspension Notice under **[Section 7.01]** of the Change of Law Protection Agreement if a Program Breach or Breach Event has occurred. The Province agrees not to deliver a Suspension Notice pursuant to **[Section** ~~8.01~~**7.01]** of the Change of Law Protection Agreement unless ~~any of the following circumstances~~a Program Breach or a Breach Event has occurred~~:~~.

~~(a) a Program Breach; and~~

~~(b) a Breach Event.~~

3.04 ~~3.03~~ Meaning of "Reference Documentation"

For the purposes of Subsection 3.01(c), the term "Reference Documentation" shall mean each Transaction Document (including any change, addition or supplement thereto) that, at the relevant time:

(a) is a Transaction Document provided to, and not objected to by, the Province prior to the making of this Agreement, as contemplated in the fifth recital to this Agreement; or

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province.

3.05 ~~3.04~~ Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to **[Section 5.01 ~~or Article VI~~]** of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation ~~or upon the assumption of obligations in accordance with [Article VI] of the Change of Law Protection Agreement~~; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reference Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reference Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(b) with respect to the Reference Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the proposed incurrence of the first Funding Obligation, OPG

shall, as the FSM, deliver to the Province: (i) a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice of the initial Protection Agreement Maximum, which may not exceed the Initial Forecast.

(b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan, or (iii) the initial Protection Agreement Maximum is ~~not less~~more than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province.

OK

(c) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast.

(d) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(c), the Province may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is ~~not less~~more than the further Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection

OK

Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(e) For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may

limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

~~ARTICLE VI~~
~~PROCESS FOR ELECTION TO ASSUME APPROVED OBLIGATIONS~~[6]

~~6.01 Election by the Province~~

~~Pursuant to Section 6.01 of the Change of Law Protection Agreement, at any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) elect to assume the Financing Entity's obligations in respect of all Obligations Secured, as obligor and debtor by giving notice to the Indenture Trustee. Prior to determining whether or not to exercise its election, the Province may deliver to OPG a notice in the form of Exhibit A (an "**Election Information Notice**"). The Election Information Notice shall, among other things, specify the date on which the Province proposes to assume the Obligations Secured, which date shall be no earlier than 20 Business Days following delivery of the Election Information Notice to OPG (the "**Proposed Assumption Date**").~~

~~6.02 Details regarding Obligations Secured~~

~~Promptly following the delivery of the Election Information Notice to OPG, OPG shall provide the following information and documentation to the Province:~~

~~(a) a summary of the amounts that will be owing under all Obligations Secured as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under the Obligations Secured;~~

~~(b) a summary of the rights arising under the Obligations Secured that permit the Financing Entity to assign the Obligations Secured to the Province, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;~~

~~(c) current versions of all documentation under which the Obligations Secured arise;~~

~~(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or~~

~~[6] Note: Lawyers to discuss assumption mechanics.~~

the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured by the Province; and

(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement.

6.03 Settlement of Terms

Following receipt and consideration by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether or not it expects to proceed with the assignment and assumption of the Obligations Secured and, if it will be proceeding with the assignment and assumption, the date on which the Province expects that assignment and assumption will be effected. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section 6.01 of the Change of Law Protection Agreement. A decision not to proceed with an election at any time will not limit the Province from proceeding with an election at a later date, including by issuing a further Election Information Notice, and Article VI of this Agreement shall continue to apply unaffected.

6.04 Cooperation to Implement the Assignment and Assumption

OPG shall cooperate with the Province and, as FSM, shall use commercially reasonable efforts to cause the Financing Entity to cooperate, and shall use its commercially reasonable efforts, to complete the assignment and assumption of the Obligations Secured by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.

6.05 Terms of Obligations Secured

In order to permit the Province to assume the Obligations Secured in the circumstances contemplated herein, OPG, as FSM, shall cause the Financing Entity to use commercially reasonable efforts to ensure that all Obligations Secured permit such an assignment to and assumption by the Province substantially in accordance with the terms and on the basis contemplated in the Assumption Agreement, without any penalty or make-whole payment, or any requirement for further consent, approval or agreement, or alternatively, in the case of any Obligations Secured entered into by or on behalf of the Financing Entity for the provision of on-going services to the Financing Entity permitting the satisfaction and termination of such Obligations Secured on or prior to the effective time of such assumption without any acceleration of future fees, profits or other like amounts, other than to the extent of payment obligations that

~~arise under market standard mark-to-market payment terms and conditions included on a commercially reasonable basis under a Derivative Agreement.~~[7]

ARTICLE VI~~ARTICLE VII~~
BREACH EVENTS

6.01 ~~7.01~~ Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, of any covenants of OPG under this Agreement, which continues for thirty (30) days after written notice by the Province to OPG of such default or breach;

(b) any representation or warranty made by OPG in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Section **[4.02]** of the Change of Law Protection Agreement, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or

(c) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.

ARTICLE VII~~ARTICLE VIII~~
MISCELLANEOUS

7.01 ~~8.01~~ Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 ~~8.02~~ Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business

[7] ~~The Trust Indenture will need to be revised to ensure that the Province's assignment and assumption right is fully contemplated and may be implemented without any requirement for further Specified Creditor or other third party consents. Among other changes, it is contemplated that Torys will add the following to the MTI to address this requirement: (i) Specified Creditors (including in the applicable Funding Obligation Agreement) will be required to acknowledge the rights of the Province to assume the Obligations Secured on the basis contemplated in the form of assumption agreement; and (ii) the Indenture Trustee will be permitted to enter into and give effect to the global Assumption Agreement without the consent of Specified Creditors or any other third parties.~~

Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: ~~[■]~~General Counsel
Fax: (416) ~~[■]~~592-4189
~~Email: [■]~~

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

with respect to delivery of documents

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section ~~8.02~~7.02.

7.03 ~~8.03~~ Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section ~~8.03~~7.03 shall be null and void.

7.04 ~~8.04~~ Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.05 ~~8.05~~ FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

7.06 ~~8.06~~ Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as trustee of **FAIR HYDRO TRUST**, as Issuer, by **ONTARIO POWER GENERATION INC.**, not in its individual capacity but solely as Manager

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"**Assumption Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

~~"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.~~

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" ~~means the occurrence or existence of any one or more of the following: (a) a default in the performance, or breach, of any covenants of the FSM under this Agreement; or (b) any representation or warranty made by the FSM, any certification made by the FSM under this Agreement, or any certification made by the FSM in a certificate contemplated by Section 4.03 of the Change of Law Protection Agreement, proves to be incorrect in any material respect on the date made; or (c) OPG is no longer the FSM or the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the FSM or the Manager.~~has the meaning ascribed thereto in Section 6.01.

~~has the meaning ascribed thereto in Section 7.01.~~

~~"**Breach Event Suspension Notice**" has the meaning ascribed thereto in Section 7.02.~~

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Certified Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"~~**Election Information Notice**~~**Executive Officer**" has the meaning ascribed thereto in ~~Section 6.01~~the Change of Law Protection Agreement.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" ~~means, at any time, the Person who is, in accordance with the Declaration of Trust, the trustee of the Financing Entity at such time~~has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(c).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in Section 4.01(a)~~.~~

"**Initial Forecast Period**" has the meaning ascribed thereto in Section 4.01(a)~~.~~

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

~~"**Legislature**" means the Legislature of the Province of Ontario.~~

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Loan Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Program Breach**" ~~means an acceleration of Funding Obligations in accordance with the provisions of the Trust Indenture or an event of default, early amortization event, termination event or similar event or circumstance (including any event that with the passage of time or the giving of notice would become such an event) of or in respect of the obligations of any party under any Program Agreement, including under this Agreement, the Trust Indenture, the Master Transfer and Servicing Agreement or any Derivative Agreement.~~has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"Proposed Assumption Date" has the meaning ascribed thereto in Section 6.01.~~

"**Protection Agreement Maximum**" means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Article IV.

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Documentation**" has the meaning ascribed thereto in Section ~~3.03.~~3.04.

needs same sort of id

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Substantially in the Form**" has the meaning ascribed thereto in Section ~~3.04.~~3.05.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons

having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

~~**EXHIBIT A**~~
~~**FORM OF ELECTION INFORMATION NOTICE**~~

~~EXHIBIT B~~
~~FORM OF BREACH EVENT SUSPENSION NOTICE~~

Document comparison by Workshare Compare on Tuesday, November 28, 2017 10:32:18 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239361/14
Description	TOR_2528-#23239361-v14-Change_of_Law_-_Process_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239361/17
Description	TOR_2528-#23239361-v17-Change_of_Law_-_Process_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	55
Deletions	103
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	160

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT[1]

Dated as of [■], 2017

[1] ~~This Agreement and the Protection Agreement will need to be effective on closing but signed and held in escrow as soon as they are settled and prior to pricing of the term deal~~Explanatory Note: Closing mechanics under consideration by the Province.

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**") is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.[2]

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of ~~Primary~~ Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions.

Prior to entering into this Agreement, OPG provided the Province with the proposed forms of certain of the Transaction Documents ~~listed on Exhibit "A"~~, and the Province has not objected to such forms ~~and has confirmed to OPG that such Transaction Documents constitute "Reference Documentation" for purposes of this Agreement~~.

~~Prior to entering into this Agreement, OPG, as the FSM, provided the Province with the initial Financing Plan attached hereto as Exhibit "B" (the "**Initial Financing Plan**"), and the Province has not objected to such Initial Financing Plan.~~

~~Prior to entering into this Agreement, OPG, as the FSM, provided to the Province (i) the initial forecast attached hereto as Exhibit "C" (the "**Initial Forecast**") setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the 24 month period following the date hereof (the "**Initial Forecast Period**"); and (ii) notice of the initial Protection Agreement Maximum of C$■ (the "**Initial Protection Agreement Maximum**").[3]~~

[2] ~~We are comfortable on this point because OPG has retained Computershare as issuer trustee. The recitals of the Declaration of Trust provide that Computershare has established the Trust at the request of the FSM. We can also provide you with a copy of the Computershare engagement letter upon request.~~

[3] ~~Given that this Agreement would now be delivered on or immediately prior to closing, we thought it would be acceptable to reference these initial items as delivered versus as future deliverables. Please note that OPG is working with the Province to deliver the initial financing plan and the initial forecast and to confirm the initial protection agreement maximum.~~

~~The Province has not objected to the Initial Forecast and the Initial Protection Agreement Maximum on the basis that (i) there does not appear to be inaccuracies in the Initial Financing Plan or the Initial Forecast, (ii) the Initial Forecast is consistent with the Initial Financing Plan, and (iii) the Initial Protection Agreement Maximum is less than the Initial Forecast.~~

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied, maintaining information related to the Program Agreements and the Approved Obligations, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect,

including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall". ~~The~~; the word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed. ~~The~~; the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof.

To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise

expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF ~~OPG~~

material

2.01 Deliveries to the Province

(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province a copy of the initial Financing Plan. Thereafter, OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the ~~Initial~~ Financing Plan.

prompt notice following the change

(b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to (i) any proposed change or supplement to a previously provided Transaction Document becoming effective or otherwise being used, (ii) any additional or replacement Transaction Document becoming effective or otherwise being used, OPG shall deliver to the Province a copy of such proposed change or supplement to the Transaction Document and any such additional or replacement Transaction Document.

provided w/ Transaction docs

(c) Promptly following (i) any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor being made, (ii) any new, additional or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments.

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

(v) not (unless waived in writing by the Province):

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any change in particular financial terms, rates and levels;

(B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to the extent that only particular financial terms, rates and levels are affected;

(C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired; or

(D) allow the Financing Entity to enter into any Supplemental Indenture or Loan Agreement where any penalty or make-whole payment, or any requirement for further consent, approval or agreement, of the Specified Creditor party thereto would be required for the Province to assume the Obligations Secured thereunder.[4]

(b) OPG shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

(ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;

(iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

(iv) after the occurrence of any Protection Event[5] (or any event known to OPG that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

~~(c) For greater certainty, the parties hereto acknowledge and agree that OPG's obligations under this Agreement are subject to (i) OPG's obligations as FSM under the Act, and (ii) OPG's obligations under the Management Agreement.~~[6]

(c) ~~(d)~~ Nothing in this Agreement ~~nor in the Change of Law Protection Agreement~~[7] shall limit the obligations of the Province under the Indemnity Agreement by the

[4] ~~Please see our cover note regarding the proposed assumption by the Province. Lawyers to discuss if appropriate mechanics for the first two deals are possible given timing.~~

[5] ~~OPG is not in a position to be aware of events that may lead to a Protection Event.~~

[6] ~~We would like to ensure that there is an acknowledgement that OPG has certain obligations under the Act and the Management Agreement.~~

[7] ~~This language has extra-contractual implications and so its meaning as between only 2 of the parties to the Protection Agreement is uncertain. Torys to explain intention. Torys: This provision is intended to clarify that neither the Protection Agreement nor the Process Agreement supersedes or otherwise amends the Province's obligations under the Provincial Indemnity Agreement. It is effectively an acknowledgment by the Province in favour of OPG and does not involve the other parties to the Protection Agreement and so we are comfortable including it here only. However, we do not have an issue with putting an equivalent clause in the Protection Agreement if that is preferable from your perspective.~~

Province in favour of OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") and to the extent of any conflict between this Agreement~~, the Change of Law Protection Agreement~~ and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify OPG, the Indemnity Agreement shall prevail.

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate[8]

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on or before the incurrence or any amendment of a ~~Certified Primary Obligation~~Funding Obligation, other than any Funding Obligation under which not more than $**[5,000,000]** in the aggregate may become payable by the Financing Entity (provided that delivery may not be more than 5 Business Days before the incurrence or amendment of the ~~Certified Primary~~Funding Obligation), setting out the following with respect to such ~~Certified Primary~~Funding Obligation:

(a) the material terms of the ~~Certified Primary~~Funding Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a ~~Master~~Derivative Agreement[9]~~, events of default, termination events and any amendment to the standard terms of the Master Agreement relating to the calculation of termination amounts (and, for greater certainty, it shall not be necessary to set out the terms of any trade confirmation)~~, the notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

(b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) ~~(b)~~ a statement to the effect that: (i) the ~~Certified Primary~~Funding Obligation to be incurred or amended (1) will arise under terms and conditions that are

[8] ~~The Process Certificate conforms to the certificate delivered under the Change of Law Protection Agreement including the changes to ensure that the Process Certificate is only provided here when a concurrent certificate is required to be delivered by OPG under the Protection Agreement. Without this consistency, the obligations can become confusing and the intent of the parties of when Primary Obligations are subject to the adherence conditions may not be clear.~~

[9] ~~Since we agreed at our meeting that OPG only needs to provide a certificate under section 4.02 of the Change of Law Protection Agreement when they enter into a Master Agreement (and not the broader concept of the Derivative Agreement), we had to revise the language here to conform to what would be expected to be found in a Master Agreement.~~

Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;

(d) ~~(c)~~ a statement confirming that any disclosure made in respect of the ~~Certified Primary~~Funding Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the ~~Certified Primary~~Funding Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;

(e) ~~(d)~~ a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(f) ~~(e)~~ confirmation that, at the time the ~~Certified Primary~~Funding Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the ~~Certified Primary~~Funding Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the ~~then applicable~~ Protection Agreement Maximum applicable on the date that the Process Certificate is delivered; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on the date the Process Certificate is delivered hereunder in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 Acknowledgement[10] regarding delivery of certificate under Change of Law protection Agreement

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section 3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in Subsection ~~[~~4.02(b)~~]~~ of the Change of Law Protection Agreement to the Indenture Trustee confirming that OPG has delivered all required certifications to the Province in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in Subsection ~~[~~4.02(b)~~]~~ of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under Subsection ~~[~~4.02(b)~~]~~ of the Change of Law Protection Agreement other than in connection with a Refinancing of a Primary Obligation in respect of which the Adherence Conditions had been satisfied at the time such Primary Obligation was incurred.[11]

3.03 Acknowledgement regarding delivery of Suspension Notice

The parties acknowledge and agree that the Province is entitled to deliver a Suspension Notice under Section 7.01 of the Change of Law Protection Agreement if a Program Breach or Breach Event has occurred. The Province agrees not to deliver a Suspension Notice pursuant to Section 7.01 of the Change of Law Protection Agreement unless a Program Breach or a Breach Event has occurred.

3.04 ~~3.03~~ Meaning of "Reference Documentation"

For the purposes of Subsection 3.01(~~b~~c), the term "Reference Documentation" shall mean each Transaction Document (including any change, addition or supplement thereto) that, at the relevant time:

(a) is a Transaction Document provided to, and not objected to by, the Province prior to the making of this Agreement, as contemplated in the fifth recital to this Agreement; or

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province.

~~[10] OPG needs certainty on the conditions in which it is permitted to deliver the certificate under the Change of Law adherence conditions.~~

~~[11] Since OPG receives a Suspension Notice under the Change of Law Protection Agreement, we removed the concept of such notice here other than to provide the covenant above.~~

3.05 ~~3.04~~ Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(~~b~~c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to ~~[Section~~Sections 1.05, 2.01 or 5.01 ~~or Article VI]~~ of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation ~~or upon the assumption of obligations in accordance with [Article VI] of the Change of Law Protection Agreement~~; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reference Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reference Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(b) with respect to the Reference Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum~~12~~

(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province: (i) a forecast setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the next following 24 month period (the "**Initial Forecast Period**"), which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice

~~12 Per an earlier footnote, the items in previous draft (a) and (b) were moved to the recitals.~~

of the initial Protection Agreement Maximum, which may not exceed the Initial Forecast.

(b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan, or (iii) the initial Protection Agreement Maximum is more than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province.

(c) ~~(a)~~ Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast.

(d) ~~(b)~~ Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(~~a~~c), the Province may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is more than the further Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(e) ~~(e)~~ For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
~~PROCESS FOR ELECTION TO ASSUME APPROVED OBLIGATIONS~~[13]BREACH EVENTS

6.01 ~~Election by the Province~~Breach Events

~~Pursuant to Section 6.01 of the Change of Law Protection Agreement, at any time following the occurrence of a Protection Event, the Province may (but shall not be obligated) elect to assume the Financing Entity's obligations in respect of all Obligations Secured permitted to be assumed by their terms as obligor and debtor by giving notice to the Indenture Trustee. Prior to determining whether or not to exercise its election, the Province may deliver to OPG a notice in the form of Exhibit "D" (an "**Election Information Notice**"). The Election Information Notice shall, among other things, specify the date or dates on which the Province proposes to assume the Obligations Secured referred to in this Section 6.01, which date or dates shall be no earlier than 60 days[14] following delivery of the Election Information Notice to OPG (with respect to each such Obligation Secured, the "**Proposed Assumption Date**").~~

~~6.02~~ ~~Details regarding Obligations Secured~~

~~Within 10 Business Days following the delivery of the Election Information Notice to OPG, OPG shall provide the following information and documentation to the Province:~~

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) ~~a summary of the amounts that will be owing under the Obligations Secured referred to in Section 6.01 as of the Proposed Assumption Date, together with a detailed schedule setting out the dates on which such amounts will become due and payable under such Obligations Secured;~~a default in the performance, or breach, of any covenants of OPG under this Agreement, which continues for thirty (30) days after written notice by the Province to OPG of such default or breach;

(b) ~~a summary of the rights arising under the Obligations Secured referred to in Section 6.01 that permit the Province to assume such Obligations Secured, including details regarding any conditions precedent to such assignment and the related assumption becoming effective and any notices, filings, consents or other actions that will be required in order to implement and effect such assignment and assumption;~~any representation or warranty made by OPG in this Agreement, any

[13] ~~Please see Torys' cover email to explain changes made in this Article and the related Article in the Protection Agreement. Section 6.05 was deleted and moved up as a covenant in section 2.02(a)(v)(D).~~

[14] ~~This process will take time and require appropriate notice to holders of the applicable Obligations Secured.~~

certification made in a Process Certificate, or any certification made in a certificate contemplated by Subsection 4.02(b) of the Change of Law Protection Agreement, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or

(c) ~~current versions of all documentation under which the Obligations Secured referred to in Section 6.01 arise;~~OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.

~~(d) copies of all correspondence exchanged between OPG, as the FSM, or the Financing Entity, on the one hand, and any Specified Creditor, Rating Agency or the Indenture Trustee, on the other hand, in each case that may reasonably be considered to be material to the assumption and performance of the Obligations Secured referred to in Section 6.01 by the Province; and~~

~~(e) all income tax returns and assessments, financial statements and notices of proceedings of or pertaining to the Financing Entity or its business and any documentation related thereto, including any pleadings, appeals, objections, qualifications or other similar materials in respect of the Financing Entity or any Program Agreement.~~

~~**6.03 Settlement of Terms**~~

~~Following receipt and consideration by the Province of the information and documentation to be provided under Section 6.02, the Province shall confirm in writing whether or not it expects to proceed with the assignment and assumption of the Obligations Secured referred to in Section 6.01 and, if it will be proceeding with the assignment and assumption, the date on which the Province expects that assignment and assumption will be effected. If it will be proceeding with such assignment and assumption, the Province will deliver an Assumption Notice as contemplated under Section **[6.01]** of the Change of Law Protection Agreement. A decision not to proceed with an election at any time will not limit the Province from proceeding with an election at a later date, including by issuing a further Election Information Notice, and Article VI of this Agreement shall continue to apply unaffected.~~

~~**6.04 Cooperation to Implement the Assignment and Assumption**~~

~~OPG shall cooperate with the Province and, as FSM, shall use commercially reasonable efforts to cause the Financing Entity to cooperate, and shall use its commercially reasonable efforts, to complete the assignment and assumption of the Obligations Secured referred to in Section 6.01 by and from the Financing Entity to and by the Province, by the applicable Assumption Closing Date.~~

ARTICLE VII[15]
MISCELLANEOUS

7.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: General Counsel
Fax: (416) 592-4189

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]

[15] ~~Breach events not required to be listed since OPG receives a Suspension Notice under the Change of Law Protection Agreement. See also the proviso in section 3.02.~~

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 7.02.

7.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 7.03 shall be null and void.

7.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

7.06 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as trustee of **FAIR HYDRO TRUST**, as Issuer, by **ONTARIO POWER GENERATION INC.**, not in its individual capacity but solely as Manager

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"**Assumption Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.~~

~~"**Assumption Closing Date**" has the meaning ascribed thereto in Section 6.03.~~

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" ~~means the occurrence of an event described~~has the meaning ascribed thereto in Section ~~**[8.01(b) or (c)]** of the Change of Law Protection Agreement.~~ 6.01.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Certified Primary Obligations**" ~~means Primary Obligations that are payment obligations that are: (i) incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest or to repay payment obligations that were incurred by or on behalf of the Financing Entity to fund its ownership of an Investment Interest,[16] (ii) incurred by or on behalf of the Financing Entity upon the Financing Entity entering into a Derivative Agreement, in which case the Certified Primary Obligation therefor shall be the Master Agreement applicable to such Derivative Agreement and not each individual trade confirmation, or (iii) incurred by or on behalf of the Financing Entity upon entering into a contract that has a term of more than three (3) years which is not terminable by the Financing Entity giving three (3) years' notice or less and aggregate payments by the Financing Entity thereunder during the term of such contract is in excess of C$5,000,000 (that, for greater certainty, is not otherwise captured in clauses (i) and (ii) above).[17]~~has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

~~[16] Query: For a warehouse facility, does the Province want a Certificate for each monthly draw?~~
~~[17] This concept reflects what Primary Obligations the parties agreed to be subject to the adherence conditions.~~

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

~~"**Election Information Notice**" has the meaning ascribed thereto in Section 6.01.~~

"**Executive Officer**" has the meaning ascribed thereto in the ~~*Securities Act* (Ontario)~~Change of Law Protection Agreement.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(~~a~~c).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other

instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"**Initial Financing Plan**" has the meaning ascribed thereto in the recitals of this Agreement.~~

"**Initial Forecast**" has the meaning ascribed thereto in ~~the recitals of this Agreement.~~Section 4.01(a)

"**Initial Forecast Period**" has the meaning ascribed thereto in ~~the recitals of this Agreement.~~Section 4.01(a)

~~"**Initial Protection Agreement Maximum**" has the meaning ascribed thereto in the recitals of this Agreement.~~

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

~~18~~

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Loan Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"**Master Agreement**" means an agreement in the form of a 1992 ISDA Master Agreement (Multi-Currency – Cross Border) as published by ISDA or any replacement or substitute or functional equivalent of such agreement.~~

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

~~18 Definition of Legislature not used here.~~

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"~~**Proposed Assumption Date**~~**Program Breach**" has the meaning ascribed thereto in ~~Section 6.01~~the Change of Law Protection Agreement.

"**Protection Agreement Maximum**" means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Article IV.

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Documentation**" has the meaning ascribed thereto in Section ~~3.03~~3.04.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Substantially in the Form**" has the meaning ascribed thereto in Section ~~3.04~~3.05.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement;

(vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to ~~a~~an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

~~**EXHIBIT "A"**~~
~~**INITIAL REFERENCE DOCUMENTATION**~~

- ~~Declaration of Trust;~~
- ~~Management Agreement;~~
- ~~Master Transfer and Servicing Agreement;~~
- ~~Acknowledgement and indemnity agreement dated as of [■], 2017 made by IESO in favour of the Indenture Trustee;~~
- ~~Security agreement made by IESO in favour of the Financing Entity to secure certain of its obligations under the Master Transfer and Servicing Agreement;~~
- ~~Trust Indenture;~~
- ~~Term Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Term Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Term Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Warehouse Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Warehouse Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Warehouse Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;~~
- ~~Schedule to the ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time;~~
- ~~Confidential shelf offering memorandum of the Financing Entity dated as of [■], 2017, including the term sheet incorporated by reference therein; and~~

- ~~Agency agreement between the Financing Entity, CIBC World Markets Inc., RBC Dominion Securities Inc., Goldman Sachs Canada Inc. and the other agents named therein dated as of [■], 2017.~~

~~**[NTD: List above to be confirmed.]**~~

~~EXHIBIT "B"~~
~~INITIAL FINANCING PLAN~~

~~(see attached)~~

~~EXHIBIT "C"~~
~~INITIAL FORECAST~~

~~(see attached)~~

~~EXHIBIT "D"~~
~~FORM OF ELECTION INFORMATION NOTICE~~

~~[NTD: Blakes to provide draft.]~~

Document comparison by Workshare Compare on Monday, December 04, 2017 11:56:43 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23239361/15
Description	TOR_2528-#23239361-v15-Change_of_Law_-_Process_Agreement
Document 2 ID	PowerDocs://TOR_2528/23239361/19
Description	TOR_2528-#23239361-v19-Change_of_Law_-_Process_Agreement
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	72
Deletions	157
Moved from	4
Moved to	4
Style change	0
Format changed	0
Total changes	237

Malle

OPG/Torys Draft: December ~~4,~~6, 2017

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT[1]

Dated as of [■], 2017

[1] Explanatory Note: Closing mechanics under consideration by the Province. **Province to advise what is under consideration.**

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**") is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the Adherence Conditions.

Prior to entering into this Agreement, OPG provided the Province with the proposed forms of certain of the Transaction Documents **listed on Exhibit "A"**, and the Province has not objected to such forms **and has confirmed to OPG that such Transaction Documents constitute "Reference Documentation" for purposes of this Agreement.**

Prior to entering into this Agreement, OPG, as the FSM, provided the Province with the initial Financing Plan, which includes the initial forecast (the "Initial Forecast") *setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the* **24 month period from December 1, 2017 to November 30, 2019** *(the "**Initial Forecast Period**")* **and** *the initial Protection Agreement Maximum* **(the "Initial Protection Agreement Maximum"). The Province has acknowledged receipt of the initial Financing Plan and has not objected to the Initial Forecast or the Initial Protection Agreement Maximum**.

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the Adherence Conditions have been satisfied**, and** maintaining information related to the Program Agreements and the Approved Obligations~~, and ensuring that the Province's assumption rights pursuant to Article VI of the Change of Law Protection Agreement may be exercised without impediment on the terms and conditions contemplated in this Agreement and the Change of Law Protection Agreement~~.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall"; the word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the

designated Articles, Sections, Subsections, Schedules, Exhibits and other subdivisions of this Agreement as originally executed; the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein and are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF OPG

2.01 Deliveries to the Province

(a) ~~Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the initial issuance of any Funding Obligation by the Financing Entity, OPG shall deliver to the Province a copy of the initial Financing Plan. Thereafter,~~ OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to ~~(i)~~ **:**

(i) any proposed change ~~or supplement to~~**in the material terms or conditions applicable to a Primary Obligation in** a previously provided Transaction Document becoming effective or otherwise being used, ~~(ii)~~ **including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that would affect the Province's rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation; provided, however, that the foregoing does not apply to any proposed change in particular financial terms, rates and levels, and**

(ii) any additional or replacement Transaction Document becoming effective or otherwise being used,

OPG shall deliver to the Province a copy of such proposed change ~~or supplement~~ to the Transaction Document and any such additional or replacement Transaction Document.

(c) Promptly following (i) any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor being made, (ii) any new, additional or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments.

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

(v) not (unless waived in writing by the Province):

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement or replacement or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to any change in particular financial terms, rates and levels;

(B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to be materially prejudicial to the rights

or interests of the Province under the Change of Law Protection Agreement; provided, however, that the foregoing does not apply to the extent that only particular financial terms, rates and levels are affected; **or**

(C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired~~; or~~.

~~(D) allow the Financing Entity to enter into any Supplemental Indenture or Loan Agreement where any penalty or make-whole payment, or any requirement for further consent, approval or agreement, of the Specified Creditor party thereto would be required for the Province to assume the Obligations Secured thereunder.~~

OK delete

[NTD: As discussed, para (D) was deleted as a consequence of the Province's assumption right being deleted.]

(b) OPG shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

(ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;

(iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

(iv) after the occurrence of any Protection Event (or any event known to OPG that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

(c) ~~Nothing in this Agreement shall limit the~~**The Province and OPG acknowledge that their** obligations ~~of the Province~~**to each other** under the Indemnity Agreement ~~by~~**between** the Province ~~in favour of~~**and** OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") ~~and to the extent of any conflict between this Agreement and such Indemnity Agreement, in respect of any matter relating to the Province's obligations to indemnify OPG, the Indemnity Agreement shall~~

~~prevail.~~**are not amended by this Agreement and continue in full force and effect, notwithstanding that this Agreement is entered into subsequent to the Indemnity Agreement.** ***[NTD: Torys and Blakes have mutually agreed to this language.]***

(d) **The Province and OPG acknowledge that their obligations to each other under the Indemnity Agreement are not amended by the Change of Law Protection Agreement and continue in full force and effect, notwithstanding that the Change of Law Protection Agreement was entered into subsequent to the Indemnity Agreement.** ***[NTD: Torys and Blakes have mutually agreed to this language.]***

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on or before the incurrence or any amendment of a Funding Obligation, other than any Funding Obligation under which not more than $[5,000,000] in the aggregate may become payable by the Financing Entity (provided that delivery may not be more than 5 Business Days before the incurrence or amendment of the Funding Obligation), setting out the following with respect to such Funding Obligation:

(a) the material terms of the Funding Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, ~~the~~**OPG's best estimate of the expected** notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights; ***[NTD: OPG can only provide an estimate of these matters and the actual pricing may be different than what is provided in the certificate since the price is based on the spot market and subject to change.]***

(b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement to the effect that: (i) the Funding Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a

reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;

(d) a statement confirming that any disclosure made in respect of the Funding Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the Funding Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;

(e) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(f) confirmation that, at the time the Funding Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Funding Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the Protection Agreement Maximum applicable on the date that the Process Certificate is delivered; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on the date the Process Certificate is delivered hereunder in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 Acknowledgement regarding delivery of certificate under Change of Law ~~protection~~Protection Agreement

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section 3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in Subsection 4.02(~~b~~a)(ii) of the Change of Law Protection Agreement to the Indenture Trustee confirming that OPG has ~~delivered all required certifications~~**complied with all of its obligations** to the Province **and internal requirements**

and processes in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in Subsection 4.02(~~b~~**a)(ii)** of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under Subsection 4.02(~~b~~**a)(ii)** of the Change of Law Protection Agreement ~~other than~~**but, for greater certainty, OPG, as FSM, may deliver a certificate referred to in Subsection 4.02(b)(ii) of the Change of Law Protection Agreement to the Indenture Trustee and the Province** in connection with a Refinancing of a Primary Obligation in respect of which the Adherence Conditions **in Subsection 4.02(a) of the Change of Law Protection Agreement** had been satisfied at the time such Primary Obligation was incurred. ***[NTD: Conforming changes made to line up with Change of Law Protection Agreement.]***

3.03 Acknowledgement regarding delivery of Suspension Notice

The parties acknowledge and agree that the Province is entitled to deliver a Suspension Notice under Section 7.01 of the Change of Law Protection Agreement if a Program Breach or Breach Event has occurred. The Province agrees not to deliver a Suspension Notice pursuant to Section 7.01 of the Change of Law Protection Agreement unless a Program Breach or a Breach Event has occurred.

3.04 Meaning of "Reference Documentation"

and provided to and acknowledged by the Province as a like

For the purposes of Subsection 3.01(c), the term "Reference Documentation" shall mean each Transaction Document ~~(including any change, addition or supplement thereto)~~ that, at the relevant time:

(a) is a Transaction Document ~~provided to, and not objected to by, the Province prior to the making of this Agreement, as contemplated in the fifth recital to this Agreement~~**listed on Exhibit "A"**; or

(b) is a Transaction Document provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province.

3.05 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation, including regarding the timing of or circumstances under which related payments are or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization), or that

would affect the Province's rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation; provided, however, that the foregoing does not apply to any variable terms to be set forth in the proposed documents as are reasonably contemplated in the Reference Documentation, including the particular financial terms, rates and levels set forth in the proposed documents other than to the extent that the forms of Reference Documentation themselves specify specific requirements, limitations or parameters with respect to such financial terms, rates, levels and parameters; and

(b) with respect to the Reference Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

~~(a) Not less than 15 Business Days, or such lesser period as the Province may agree to in writing, prior to the proposed incurrence of the first Funding Obligation, OPG shall, as the FSM, deliver to the Province: (i) a forecast< *setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the* >next following 24 month period< *(the "**Initial Forecast Period**")*>, which expectations shall be consistent with the Financing Plan (the "**Initial Forecast**"); and (ii) notice of< *the initial Protection Agreement Maximum*>, which may not exceed the Initial Forecast.~~

~~(b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of the Initial Forecast and notice of the initial Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan, or (iii) the initial Protection Agreement Maximum is more than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province.~~

(a) ~~(c)~~ Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Approved Obligations that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Approved Obligations to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast.

(b) ~~(d)~~ Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(~~c~~a), the Province may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is more than the further Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(c) ~~(e)~~ For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
BREACH EVENTS

6.01 Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, of any covenants of OPG under this Agreement, **excluding Section 2.01(b)(i),** which continues for thirty (30) days after written notice by the Province to OPG of such default or breach;

(b) a default in the performance, or breach, by OPG of Section 2.01(b)(i);

(c) ~~(b)~~ any representation or warranty made by OPG in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Subsection 4.02~~(b)~~ of the Change of Law Protection Agreement, proves to be incorrect on the date made and, if curable, is not cured within thirty (30) days after written notice by the Province to OPG of such misrepresentation; or

(d) ~~(c)~~ OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.

ARTICLE VII
MISCELLANEOUS

7.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: General Counsel

Fax: (416) 592-4189

(b) if to the Province:

Ministry of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Ministry of Energy
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 7.02.

7.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 7.03 shall be null and void.

7.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

7.06 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as trustee of **FAIR HYDRO TRUST**, as Issuer, by **ONTARIO POWER GENERATION INC.**, not in its individual capacity but solely as Manager

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Adherence Conditions**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Approved Obligation**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Beneficiaries**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Breach Event**" has the meaning ascribed thereto in Section 6.01.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Certified Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the FSM on behalf of the Financing Entity and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Executive Officer**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Entity Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Financing Plan**" has the meaning ascribed ~~thereto in the Act as of the date of this Agreement~~.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(~~e~~a).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed ~~to the term "governing document" in the~~ General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"IESO Security> ***Agreement****" has the meaning ascribed thereto in the Trust Indenture.<*

"**Indenture Trustee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Initial Forecast**" has the meaning ascribed thereto in ~~Section 4.01(a)~~**the recitals of this Agreement.**

"**Initial Forecast Period**" has the meaning ascribed thereto in ~~Section 4.01(a)~~**the recitals of this Agreement.**

"~~**Investment Interest**~~**Initial Protection Agreement Maximum**" has the meaning ascribed **thereto in the recitals of this Agreement.**

"Investment Interest" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Limited Guarantee**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

~~"**Loan**" *has the meaning ascribed thereto in the Trust Indenture.*~~

"**Management Agreement**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Manager**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Primary Obligations**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Program Breach**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Protection Agreement Maximum**" means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Article IV.

"**Protection Event**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Documentation**" has the meaning ascribed thereto in Section 3.04.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Specified Creditors**" has the meaning ascribed thereto in the Trust Indenture.

"**Substantially in the Form**" has the meaning ascribed thereto in Section 3.05.

"**Suspension Notice**" has the meaning ascribed thereto in the Change of Law Protection Agreement.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that affects the Province's subrogation rights and/or subrogee interests, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

EXHIBIT "A"
INITIAL REFERENCE DOCUMENTATION

- ☐ **Declaration of Trust;**
- ☐ **Management Agreement;**
- ☐ **Master Transfer and Servicing Agreement;**
- ☐ **Acknowledgement and indemnity agreement dated as of [■], 2017 made by IESO in favour of the Indenture Trustee;**
- ☐ **IESO Security Agreement;**
- ☐ **Trust Indenture;**
- ☐ **Warehouse Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;**
- ☐ **Warehouse Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017; and**
- ☐ **Warehouse Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.**
- ☐ **Term Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;**
- ☐ **Term Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;**
- ☐ **Term Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;**
- ☐ **[Confidential shelf offering memorandum of the Financing Entity dated as of [■], 2017, including the term sheet incorporated by reference therein; and**
- ☐ **Agency agreement between the Financing Entity, CIBC World Markets Inc., RBC Dominion Securities Inc., Goldman Sachs Canada Inc. and the other agents named therein dated as of [■], 2017.]** ***[NTD: OM and Agency Agreement will be removed from Schedule A if not provided to the Province sufficiently in advance of execution of the Process Agreement.]***

- need to have some sort of identification

Document comparison by Workshare Compare on December-06-17 4:23:37 PM

Input:	
Document 1 ID	interwovenSite://INVENTORYS1/TorysAtWork/24592518/1
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Document 2 ID	interwovenSite://INVENTORYS1/TorysAtWork/24592518/4
Description	#24592518v4<TorysAtWork> - Change of Law Process Agreement (Dec 6)
Rendering set	strikeout-colour

Legend:	
Insertion	
~~Deletion~~	
<~~*Moved from*~~>	
>*Moved to*<	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	87
Deletions	46
Moved from	4
Moved to	4
Style change	0
Format changed	0
Total changes	141

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY AND THE MINISTER OF FINANCE

AND

ONTARIO POWER GENERATION INC.

CHANGE OF LAW PROCESS AGREEMENT

Dated as of [■], 2017

This **CHANGE OF LAW PROCESS AGREEMENT**, between Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**"), and Ontario Power Generation Inc. ("**OPG**") is made and entered into as of [■], 2017.

RECITALS

OPG is appointed as the Financial Services Manager under Section 18 of the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**").

Pursuant to Section 22(2) of the Act, OPG, in its capacity as the Financial Services Manager (the "**FSM**"), may establish or cause to be established one or more financing entities (as defined in the Act), which may incur Funding Obligations in accordance with the Act.

Pursuant to a Declaration of Trust dated as of [■], 2017, the Financing Entity was established as a "financing entity" (as defined in the Act) for the purposes contemplated in the Act.

Concurrent with this Agreement, the Province, the FSM, the Financing Entity and the Indenture Trustee will enter into the Change of Law Protection Agreement under which the Province will agree to provide protections and assurances to the Indenture Trustee, for the benefit of the Beneficiaries, in respect of Obligations Secured that constitute Approved Obligations, in order to address concerns that would arise from a change or adverse determination of law, subject in each case to the satisfaction of the applicable Adherence Conditions.

Prior to entering into this Agreement, OPG provided the Province with the final forms of certain of the Transaction Documents, as described on Exhibit "A", and the Province has not objected to such forms and hereby confirms to OPG that such Transaction Documents will constitute "Reference Documentation" for purposes of this Agreement.

Prior to entering into this Agreement, OPG, as the FSM, provided the Minister of Energy, in compliance with the Act, with the initial Financing Plan, which includes the initial forecast (the "**Initial Forecast**") setting out OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Obligations Secured to be incurred during the 24 month period from December 1, 2017 to November 30, 2019 (the "**Initial Forecast Period**"). Prior to entering into this Agreement, OPG provided the Province with the initial Protection Agreement Maximum (the "**Initial Protection Agreement Maximum**"). The Province has received the initial Financing Plan and has not disagreed with the Initial Forecast or the Initial Protection Agreement Maximum on the basis of an apparent inaccuracy in the Initial Forecast, an inconsistency between the Initial Forecast and the initial Financing Plan, or as a result of the Initial Protection Agreement Maximum being more than the Initial Forecast.

This Agreement sets out the obligations OPG has agreed to perform and assurances OPG has agreed to provide and on which the Province will rely in entering into and implementing the Change of Law Protection Agreement, including for the purposes of determining whether the applicable Adherence Conditions have been satisfied and maintaining information related to the Program Agreements and the Approved Obligations.

All things necessary to make this Agreement a valid and legally binding agreement of OPG and the Province, have been done.

AGREEMENT OF THE PARTIES

In consideration of the respective agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

1.01 Interpretation

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms used in this Agreement that are defined in Schedule A have the meanings assigned to them in Schedule A;

(b) the terms used in this Agreement that are not defined in this Agreement shall have the meanings assigned to them in the Change of Law Protection Agreement;

(c) words importing the singular shall include the plural and vice versa, words importing general shall include all genders or the neuter, and words importing the neuter shall include all genders;

(d) all references to any Person shall include such Person's permitted successors and assigns, and any reference to a Person in a particular capacity excludes such Person in other capacities;

(e) references to any law, rule, regulation or order of a Governmental Authority (including, for greater certainty, references to the Act and the General Regulation) shall include such law, rule, regulation or order as from time to time in effect, including any amendment, modification, codification, replacement or reenactment thereof or any substitution therefor;

(f) the word "will" shall be construed to have the same meaning and effect as the word "shall"; the word "or" is not exclusive;

(g) any reference to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or, as the case may be, such other agreement, document or instrument as the same may have been, or may from time to time be, amended, varied, replaced, amended and restated, supplemented or otherwise modified;

(h) all references in this Agreement to designated "Articles", "Sections", "Subsections" "Schedules", "Exhibits" and other subdivisions are to the designated Articles, Sections, Subsections, Schedules, Exhibits and other

subdivisions of this Agreement as originally executed; the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection, Schedule, Exhibit or other subdivision;

(i) "including" and words of similar import will be deemed to be followed by "without limitation"; and

(j) with respect to the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

1.02 References to the Financing Entity

For greater certainty, each reference to the Financing Entity shall be construed as a reference to the Financing Entity Trustee, as trustee of the Financing Entity.

1.03 Effect of Headings

The Article and Section headings herein are for convenience only and will not affect the construction hereof.

1.04 Successors and Assigns

All covenants and agreements in this Agreement by the parties will bind their respective successors and permitted assigns, whether so expressed or not.

1.05 Severability

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction will not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect.

1.06 Governing Law

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

1.07 Proceedings Against the Crown Act

NOTHING IN THIS AGREEMENT OR THE PROGRAM AGREEMENTS AFFECTS THE RIGHTS, PROTECTIONS AND IMMUNITIES OF THE CROWN UNDER THE PROCEEDINGS AGAINST THE CROWN ACT (ONTARIO).

1.08 Attornment

EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS AGREEMENT.

1.09 Counterparts; Electronic Delivery

This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, but all such counterparts will together constitute one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

1.10 Non-Business Days

Whenever any period of time would begin or end or any other action to be taken hereunder shall be stated to be required to be taken, on a day other than a Business Day, then (notwithstanding any other provision of this Agreement) such period of time shall begin or end, and such other action shall be taken on the next succeeding Business Day.

1.11 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement will be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement will constitute a waiver of any other provision nor will any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right.

ARTICLE II
COVENANTS OF OPG

2.01 Deliveries to the Province

(a) OPG shall promptly deliver to the Province a copy of any proposed change to or replacement of the Financing Plan.

(b) Not less than 10 Business Days, or such lesser period as the Province may agree to in writing, prior to:

(i) any proposed material change in the terms or conditions applicable to a Primary Obligation in a previously provided Transaction Document becoming effective or otherwise being used; provided, however, that a proposed change in particular financial terms, rates or levels shall not constitute a material change, and

(ii) any additional, supplemental or replacement Transaction Document becoming effective or otherwise being used,

OPG shall deliver to the Province a copy of such proposed change to the Transaction Document and any such additional, supplemental or replacement Transaction Document.

(c) Without limiting Subsection 2.01(b), and except as has previously been provided to the Province under Subsection 2.01(b), promptly following (i) any change, modification, alteration, amendment, supplement, extension, renewal, compromise, novation, replacement, suspension or waiver of the terms of all or any part of the Approved Obligations or any Collateral therefor being made, (ii) any new, additional, supplemental or replacement instruments, documents, agreements or security being used or granted in connection with all or any part of the Approved Obligations, or (iii) any waiver, release, reconveyance, termination, abandonment, subordination, exchange, substitution, transfer, compound, compromise, liquidation or enforcement of all or any part of the Approved Obligations or any security or guarantee therefor being effected, OPG shall deliver to the Province a detailed description of such event and the reasons for it together with any related documents, agreements and instruments.

(d) Promptly following any incurrence of a Funding Obligation or any amendment of a Funding Obligation, OPG shall provide the Province with electronic copies of all related Governing Documents and all other closing documents executed by or on behalf of the Financing Entity in connection with such incurrence or amendment that would affect the Financing Entity's assets or obligations (including, for greater certainty, any related Disclosure Document) and which have not been previously provided to the Province.

(e) Promptly upon request, OPG shall provide the Province with such additional information and documentation as the Province reasonably requests in order to enable the Province to assess the nature and extent of its obligations under the Change of Law Protection Agreement.

2.02 Covenants

(a) OPG shall use commercially reasonable efforts to cause the Financing Entity to:

(i) punctually perform and observe all of the Financing Entity's obligations and agreements contained in the Program Agreements;

(ii) ensure that all Obligations Secured are incurred pursuant to and in accordance with the terms and conditions of the Trust Indenture;

(iii) ensure that no obligations other than the Obligations Secured are incurred by or on behalf of the Financing Entity;

(iv) not engage in any business other than as permitted under the Declaration of Trust or the other Program Agreements and activities ancillary thereto; and

this was OK

(v) not (unless waived in writing by the Province):

(A) amend, supplement, modify, restate or replace or waive or consent to a postponement of compliance with the terms and conditions on the part of any other party to any of the Program Agreements, if any such supplementation, amendment, modification, restatement, replacement, waiver or consent could reasonably be considered to have a Material Effect; provided, however, that the foregoing does not apply to any supplement, amendment, modification, restatement, replacement, waiver or consent in respect of particular financial terms, rates or levels;

(B) extend, renew, compromise, novate, replace, suspend, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, liquidate or enforce the terms of all or any part of the Approved Obligations or any Collateral, if any such action could reasonably be considered to have a Material Effect; provided, however, that the foregoing does not apply to any such action taken in respect of particular financial terms, rates or levels; or

should be highlighted

(C) permit the validity or effectiveness of the Change of Law Protection Agreement to be impaired.

(b) If any action restricted pursuant to Section 2.02(a)(v) is reflected in a delivery required to be made by OPG to the Province pursuant to Section 2.01(b) and is not objected to by the Province under Section 3.04(b), the Province shall be

deemed to have waived its rights in respect of such action under Section 2.02(a)(v).

(c) OPG shall:

(i) comply, and shall use commercially reasonable efforts to cause compliance by the Financing Entity, with the Act, the General Regulation and any other enactment related thereto;

(ii) punctually perform and observe all of its (including as the FSM and as Manager) obligations and agreements contained in the Program Agreements;

(iii) promptly notify the Province of the creation of any Funding Obligation that is not or would not be an Approved Obligation; and

(iv) notify the Province of (1) the occurrence of any Breach Event and any Program Breach, in each case within 2 Business Days of any such occurrence, and (2) any event or circumstance known to OPG that with the passage of time or the giving of notice would be a Breach Event or a Program Breach, in each case within 1 Business Day of OPG first becoming aware of such event or circumstance; and

(v) after the occurrence of any Protection Event (or any event or circumstance known to OPG that with the passage of time or the giving of notice would be a Protection Event), not, without the Province's prior written consent, permit the Financing Entity to exercise any redemption, pre-payment, early termination or extension right in respect of any Approved Obligation or exercise any other election or privilege in respect of any Approved Obligation, in each case if as a result the obligations applicable to the Approved Obligation under the Change of Law Protection Agreement would be accelerated, delayed or otherwise affected.

Suspension Event - this is a new point

(d) The Province and OPG acknowledge that their obligations to each other under the Indemnity Agreement between the Province and OPG dated June 1, 2017 (as amended, the "**Indemnity Agreement**") are not amended by this Agreement and continue in full force and effect, notwithstanding that this Agreement is entered into subsequent to the Indemnity Agreement.

(e) The Province and OPG acknowledge that their obligations to each other under the Indemnity Agreement are not amended by the Change of Law Protection Agreement and continue in full force and effect, notwithstanding that the Change of Law Protection Agreement was entered into subsequent to the Indemnity Agreement.

ARTICLE III
PROCESS CERTIFICATE

3.01 Process Certificate

OPG shall deliver a certificate (the "**Process Certificate**"), signed by the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) and addressed to the Province, on or before the incurrence or any amendment of a Funding Obligation, other than any Funding Obligation under which not more than $5,000,000 in the aggregate may become payable by the Financing Entity (provided that delivery may not be more than 5 Business Days before the incurrence or amendment of the Funding Obligation), setting out the following with respect to such Funding Obligation:

(a) the material terms of the Funding Obligation pertaining to (i) in the case of notes, bonds or other securities, the principal amount, interest or discount rate, third party fees, term to maturity, amortization, redemption or extension features, structure and coupon frequency, as applicable, and (ii) in the case of a Derivative Agreement, OPG's best estimate of the expected notional amount, financial terms and pricing, benchmarks, payment structures and early termination rights;

(b) if an existing Funding Obligation is proposed to be amended, material details respecting such amendment, including regarding the applicable details set forth in Subsection 3.01(a), as the context requires;

(c) a statement to the effect that: (i) the Funding Obligation to be incurred or amended (1) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto; (2) in the opinion of the signatories to the Process Certificate, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the applicable Financing Plan; (3) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and (4) reflect, in all material respects, arm's length terms and conditions; and (ii) any Disclosure Document used in connection with the offering and sale of notes, bonds or other securities is Substantially in the Form of the Reference Documentation;

(d) a statement confirming that any disclosure made in respect of the Funding Obligation (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to the Funding Obligation) that refers to or describes the terms, effect or adherence of or to this Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made;

(e) a statement that no Breach Event has occurred on or prior to the date of the Process Certificate, unless such Breach Event has been waived by the Province in writing; and

(f) confirmation that, at the time the Funding Obligation is incurred or amended, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Funding Obligation, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not and will not exceed the Protection Agreement Maximum applicable on the date that the Process Certificate is delivered; for clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be determined on the date the Process Certificate is delivered hereunder in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

3.02 Acknowledgement regarding delivery of certificate under Change of Law Protection Agreement

The Province acknowledges and agrees that, concurrent with the delivery of the Process Certificate pursuant to Section 3.01 of this Agreement, the Chief Financial Officer and the Treasurer of OPG or any two Executive Officers of OPG (for clarity, such certificate is to be provided by such officers in their capacity as officers of OPG acting in its capacity as FSM) are authorized to deliver the certificate referred to in Subsection 4.02(a)(ii) of the Change of Law Protection Agreement to the Indenture Trustee confirming that OPG has complied with all of its obligations to the Province and internal requirements and processes in connection with adherence of the Limited Guarantee to the incurrence of the Certified Primary Obligations in respect of which the certificate in Subsection 4.02(a)(ii) of the Change of Law Protection Agreement is being delivered; provided that, upon receipt of a Suspension Notice under the Change of Law Protection Agreement, OPG covenants not to deliver any further certificates to the Indenture Trustee under Subsection 4.02(a)(ii) of the Change of Law Protection Agreement.

3.03 Acknowledgement regarding delivery of Suspension Notice

The parties acknowledge and agree that the Province is entitled to deliver a Suspension Notice under Section 7.01 of the Change of Law Protection Agreement if a Program Breach or Breach Event has occurred. The Province agrees not to deliver a Suspension Notice pursuant to Section 7.01 of the Change of Law Protection Agreement unless a Program Breach or a Breach Event has occurred.

3.04 Meaning of "Reference Documentation"

For the purposes of Subsection 3.01(c), the term "Reference Documentation" shall mean each Transaction Document that, at the relevant time:

(a) is a Transaction Document listed on Exhibit "A"; or

(b) is a Transaction Document (including any amended or amended and restated Transaction Document) provided to the Province in accordance with Subsection 2.01(b) that has not been objected to by the Province, by delivery of an objection notice in writing delivered to OPG, within 10 Business Days after it is provided to the Province; provided that the Province (i) shall only be entitled to deliver an objection notice if the Transaction Document (including any amended or amended and restated Transaction Document) has a Material Effect and (ii) shall not be entitled to deliver an objection notice in respect of any Post-Suspension Refinancing.

3.05 Meaning of "Substantially in the Form"

For the purposes of Subsection 3.01(c), the term "Substantially in the Form" shall mean:

(a) with respect to the Reference Documentation referred to in clauses (i) to (xi) of the definition of "Transaction Documents", that there are no differences between the proposed documents and such Reference Documentation that could result in a change in the material terms or conditions applicable to the applicable Primary Obligation that could have a Material Effect; provided, however, that the foregoing does not apply to any particular financial terms, rates or levels; and

(b) with respect to the Reference Documentation referred to in clause (xii) of the definition of "Transaction Documents", that there are no material differences between the form and substance of the proposed Disclosure Document and such form of Disclosure Document and that the proposed Disclosure Document complies in all material respects with all applicable securities disclosure requirements relating to the Primary Obligation subject to distribution thereunder.

ARTICLE IV
PROTECTION AGREEMENT MAXIMUM

4.01 Protection Agreement Maximum

(a) Between nine (9) and twelve (12) months prior to the end of the Initial Forecast Period, OPG shall, as the FSM, deliver to the Province an updated forecast setting out the sum of (1) the aggregate amount of Repayments that will arise in the future under Obligations Secured that are then outstanding and (2) OPG's expectations regarding the aggregate maximum amount of Repayments that would arise in the future under Obligations Secured to be incurred during the period ending 24 months following the Initial Forecast Period, which expectation shall be consistent with the then applicable Financing Plan. Such updated forecast

shall be further updated on a similar basis with respect to each successive 24 month period or more frequently if at any time OPG has knowledge that the most recent forecast is materially inaccurate (the Initial Forecast and each such updated forecast, each a "**Forecast**"). Together with each Forecast, OPG shall also provide a revised Protection Agreement Maximum, which may not exceed such Forecast.

(b) Not more than 10 Business Days, or such lesser period as the Province may agree to in writing, following receipt of any further Forecast and notice of the revised Protection Agreement Maximum from OPG pursuant to Section 4.01(a), the Province may disagree with such further Forecast or revised Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in such further Forecast, (ii) the further Forecast is inconsistent with the Financing Plan, or (iii) the revised Protection Agreement Maximum is more than the further Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the Province, address any inaccuracies and inconsistencies to the reasonable satisfaction of the Province and OPG, and the revised Protection Agreement Maximum will be further revised accordingly and confirmed by an amended notice to the Province.

(c) For clarity, Repayments under Obligations Secured owing in currencies other than Canadian dollars will be valued at the time to be determined for the purposes of this Section 4.01 in accordance with the following:

(i) where a Derivative Agreement has been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the hedged value expressed in Canadian dollars; and

(ii) where a Derivative Agreement has not been entered into to hedge related currency exposures, Repayments under such obligations shall be valued on the basis of the noon spot rate for conversions of any currencies into Canadian dollars.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

5.01 Representations and Warranties of OPG

OPG represents and warrants that on the date hereof and on each day that a Primary Obligation is incurred or amended:

(a) The Financing Entity is a trust duly constituted and validly existing under the laws of the Province of Ontario, is duly qualified to carry on its business in each jurisdiction in which it carries on business, and has the power and authority to perform the acts that OPG, as the FSM, may cause it to perform pursuant to this Agreement and to own its property and carry on its business in accordance with the Program Agreements.

(b) OPG is a corporation duly constituted and validly existing under the laws of the Province of Ontario and has the power and authority to enter into and perform its obligations under this Agreement and all instruments and agreements delivered pursuant hereto.

(c) OPG has the power and authority to enter into and perform its obligations as the FSM under the Program Agreements and all instruments and agreements delivered pursuant thereto.

(d) The execution, delivery and performance of this Agreement and every instrument or agreement delivered pursuant hereto or in its capacity as the FSM has been or will be duly authorized by all requisite action by OPG and constitute a valid and binding obligation in accordance with its terms subject to (i) applicable bankruptcy, insolvency, moratorium and similar laws at the time in effect affecting the rights of creditors generally, and (ii) equitable principles which may limit the availability of certain remedies, including the remedy of specific performance.

(e) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting the Financing Entity at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of the Financing Entity or in the ability of the Financing Entity to perform its obligations under the Program Agreements.

(f) There are no actions, suits or proceedings pending or, to the knowledge of OPG, threatened against or affecting OPG at law or in equity or before or by any Governmental Authority, or before any arbitrator of any kind, which would result in any material adverse change in the business, operations, prospects, properties, assets or condition, financial or otherwise, of OPG or in the ability of the OPG to perform its obligations under this Agreement or any Program Agreements.

(g) The performance by the Financing Entity of the Program Agreements does not conflict with, will not conflict with, does not result in, and will not result in, any breach of, and does not constitute, a default under, the Declaration of Trust or any agreements or instruments to which the Financing Entity is a party or by which it or any of its property and assets are bound.

(h) Neither the execution nor delivery of this Agreement, the Program Agreements nor any agreements or instruments delivered pursuant hereto or thereto, the consummation of the transactions herein or therein, nor compliance with the terms, conditions and provisions hereof or thereof conflicts with or will conflict with, or results or will result in any breach of, or constitutes a default under, any of the provisions of the constating documents of OPG or any agreements or instruments to which OPG is a party or by which it or any of its property and assets are bound.

(i) No consent, approval or authorization of, or declaration, registration, filing or qualification with, or giving of notice to, or taking of any other action in respect of, any Governmental Authority on the part of OPG is required in connection with the execution and delivery of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto or the consummation of any of the transactions contemplated hereby or thereby or in connection with the enforcement of this Agreement, the Program Agreements or any agreements or instruments delivered pursuant hereto or thereto, except those which have been obtained.

5.02 Representations and Warranties of the Province

The Province hereby represents and warrants that:

(a) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province have been authorized by all necessary action on the part of the Province;

(b) the execution and delivery of, and the performance of its obligations under, this Agreement by the Province do not result in the violation of any applicable law; and

(c) this Agreement has been duly executed and delivered by the Province.

ARTICLE VI
BREACH EVENTS

6.01 Breach Events

"**Breach Event**" shall mean the occurrence or existence of any one or more of the following:

(a) a default in the performance, or breach, by OPG of Section 2.01(b)(i), Section 2.02(b)(iv) or Section 3.01;

(b) a default in the performance, or breach, of any other covenants of OPG under this Agreement (excluding Section 2.01(b)(i), Section 2.02(b)(iv) and Section 3.01), which, if curable in a way such that the default or breach would not have or have had a Material Effect, is not so cured within thirty (30) days;

(c) any representation or warranty made by OPG in this Agreement, any certification made in a Process Certificate, or any certification made in a certificate contemplated by Subsection 4.02 of the Change of Law Protection Agreement, proves to be incorrect in a material respect on the date made and which, if curable in a way such that the incorrect representation or warranty may be remedied without any Material Effect having occurred as a result of the Province's reliance thereon, is not so cured within thirty (30) days; or

(d) OPG is no longer the Manager or actions have been taken by or on behalf of the Indenture Trustee to remove OPG as the Manager.

ARTICLE VII
MISCELLANEOUS

7.01 Term of Agreement

This Agreement will continue for the term of the Change of Law Protection Agreement.

7.02 Notices

Any notice or other communication required or permitted to be given hereunder will be in writing and will be given by prepaid first-class mail, by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, will be deemed to have been received on the fourth Business Day after the post-marked date thereof, or if sent by facsimile or other means of electronic communication, will be deemed to have been received on the Business Day following the sending, or if delivered by hand will be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address will also be governed by this Section. In the event of a general discontinuance of postal service due to strike, lock-out or otherwise, notices or other communications will be delivered by hand or sent by facsimile or other means of electronic communication and will be deemed to have been received in accordance with this Section. Notices and other communications will be addressed as follows:

(a) if to OPG:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario M5G 1X6
Attention: General Counsel
Fax: (416) 592-4189

(b) if to the Province:

Deputy Minister of Finance
[Address]
Attention: [■]
Fax: (416) [■]
Email: [■]

and

Deputy Ministry of Energy
[Address]

Attention: [■]
Fax: (416) [■]
Email: [■]

or to such other addresses as a party may from time to time notify the other parties in accordance with this Section 7.02.

7.03 Assignment

(a) None of the rights or obligations hereunder shall be assignable or transferable by any party without the prior written consent of the other parties.

(b) Any purported assignment of this Agreement in violation of this Section 7.03 shall be null and void.

7.04 Enurement

This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.05 FIPPA

The parties acknowledge that the Province will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Province, or any agent or representative of the Province in connection with this Agreement may be subject to disclosure in accordance with the act or as otherwise required by law.

7.06 Delivery of Executed Copies

Each party acknowledges delivery of a fully executed copy of this Agreement.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF FINANCE

By: _____

Name:
Title:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE MINISTER OF ENERGY

By: _____

Name:
Title:

ONTARIO POWER GENERATION INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Each of the undersigned hereby acknowledge the foregoing as of the day and year first above written.

COMPUTERSHARE TRUST COMPANY OF CANADA, in its capacity as trustee of **FAIR HYDRO TRUST**, as Issuer, by **ONTARIO POWER GENERATION INC.**, not in its individual capacity but solely as Manager

By: _____

Name:
Title:

By: _____

Name:
Title:

SCHEDULE A
DEFINED TERMS

"**Act**" has the meaning ascribed thereto in the first paragraph of the recitals in this Agreement.

"**Breach Event**" has the meaning ascribed thereto in Section 6.01.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by applicable law, regulation or executive order to be closed.

"**Change of Law Protection Agreement**" means the Change of Law Protection Agreement dated [■], 2017 among the Province, the Financing Entity, OPG (as the FSM and the Manager) and the Indenture Trustee.

"**Collateral**" has the meaning ascribed thereto in the Trust Indenture.

"**Co-Owner Agreement**" means any agreement between, *inter alia*, the Financing Entity and any other owner or owners of an Investment Interest as contemplated by Subsection 29(5) of the Act.

"**Declaration of Trust**" means the declaration of trust made as of [■], 2017 under which the Financing Entity was established.

"**Derivative Agreement**" means any rate swap transaction, basis swap, forward rate transaction, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, total return swap transaction, credit default swap transaction or any other similar transaction (including any option with respect to any of those transactions) or any combination of these transactions entered into from time to time by the Financing Entity in connection with or related to Funding Obligations.

"**Disclosure Document**" means a disclosure document (including any offering circular, prospectus or other investor disclosure statement) describing the material terms of the notes, bonds or securities to be issued pursuant to a supplemental indenture under the Trust Indenture, together with any related material information;

"**Fair Allocation Amount**" has the meaning ascribed to the term "fair allocation amount" in the Act as of the date of this Agreement.

"**Financing Entity**" means Fair Hydro Trust, a trust settled by the FSM under the laws of the Province of Ontario and under which the Financing Entity Trustee is the trustee.

"**Financing Plan**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**Forecast**" has the meaning ascribed thereto in Section 4.01(a).

"**FSM**" has the meaning ascribed thereto in the second paragraph of the recitals of this Agreement.

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act as of the date of this Agreement.

"**General Regulation**" means O. Reg. 206/17 made under the Act.

"**Governing Document**" has the meaning ascribed to the term "governing document" in the General Regulation.

"**Governmental Authority**" means any nation or government, any federal, state, provincial, local or other political subdivision thereof and any court, administrative agency or other instrumentality or entity exercising executive, legislative, judicial, regulatory or administrative functions of government.

"**IESO**" has the meaning ascribed thereto in the Act as of the date of this Agreement.

"**IESO Security Agreement**" has the meaning ascribed thereto in the Trust Indenture.

"**Initial Forecast**" has the meaning ascribed thereto in the recitals of this Agreement.

"**Initial Forecast Period**" has the meaning ascribed thereto in the recitals of this Agreement.

"**Initial Protection Agreement Maximum**" has the meaning ascribed thereto in the recitals of this Agreement.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act as of the date of this Agreement.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated [■], 2017 between the Financing Entity and IESO.

"**Material Effect**" means a material adverse effect on the obligations or the rights of the Province under the Limited Guarantee, the Change of Law Protection Agreement or this Agreement that relates to: (i) the timing of or circumstances under which related payments would or may become due or accrue (including as a result of any default, acceleration, termination, wind-up, liquidation or realization) that, in each case, is inconsistent with the Fair Allocation Amount or the terms of any previously provided Reference Documentation; (ii) the appointment, obligations or duties of OPG as the Manager; (iii) the existence, powers or authority of the Financing Entity or the Financing Entity Trustee; (iv) the obligations of the Indenture Trustee to or in respect of the Province as a Specified Creditor; (v) the payment provisions and associated priorities set forth in the Trust Indenture; (vi) compliance by the FSM with the then applicable Financing Plan; (vii) compliance by the FSM or the Financing Entity with the Act or the General Regulation; or (viii) the Province's rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its interests as a subrogee or an assignee, that would arise as a result of performing the Limited Guarantee in respect of the applicable Primary Obligation.

"**Obligations Secured**" has the meaning ascribed thereto in the Trust Indenture.

"**OPG**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Person**" means any individual, corporation, limited liability company, estate, partnership, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization or Governmental Authority.

"**Process Certificate**" has the meaning ascribed thereto in Section 3.01.

"**Program Agreements**" has the meaning ascribed thereto in the Trust Indenture.

"**Protection Agreement Maximum**" means the dollar amount referenced as the Program Agreement Maximum and determined in accordance with Section 4.01.

"**Province**" has the meaning ascribed thereto in the first paragraph of this Agreement.

"**Rating Agency**" has the meaning ascribed thereto in the Trust Indenture.

"**Reference Documentation**" has the meaning ascribed thereto in Section 3.04.

"**Repayment**" has the meaning ascribed to the term "repayment" in the General Regulation as of the date of this Agreement.

"**Substantially in the Form**" has the meaning ascribed thereto in Section 3.05.

"**this Agreement**" means this agreement, as amended, supplemented, restated or otherwise modified from time to time.

"**Transaction Document**" means (i) all constating and organizational documents of the Financing Entity, including the Declaration of Trust; (ii) any management, administration or servicing agreement to which the Financing Entity is a party, including any replacement or standby services agreement and the Management Agreement; (iii) the Master Transfer and Servicing Agreement; (iv) Trust Indenture; (v) the form of supplemental indenture (supplemental to the Trust Indenture) governing the terms and conditions of a sample series of notes, bonds or other securities to be issued by the Financing Entity, including the particular allocations, security and priority of the Obligations Secured being serviced by the related Investment Interest and any other related series property; (vi) the form of any note, bond or securities purchase agreement; (vii) the form of underwriting agreement, agency agreement, selling agreement and/or subscription agreement that may be used with respect to a sale of a related series of notes, bonds or securities to be issued under the supplemental indenture referred to in (v), above; (viii) the form of any loan or credit agreement governing the issuance of short term loan obligations by the Financing Entity; (ix) the form of schedule to an ISDA Master Agreement governing derivative transactions that may be entered into the Financing Entity from time to time; (x) the form of any other agreement or instrument under which a Funding Obligation may arise or be effected, including any other agreement under which the Financing Entity incurs a material financial obligation or that could affect the Province's rights of subrogation or assignment (including pursuant to Sections 1.05, 2.01 or 5.01 of the Change of Law Protection Agreement) or its

interests as a subrogee or an assignee, including any standby liquidity arrangements or credit enhancement agreements; (xi) if applicable, a Co-Owner Agreement or any other agreement governing the respective interests of persons having rights or interests in the investment asset or other assets of the Financing Entity, including any other agreement of the sort contemplated in Subsection 29(5) of the Act; and (xii) the form of Disclosure Document.

"**Trust Indenture**" means the trust indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

EXHIBIT "A"
INITIAL REFERENCE DOCUMENTATION

- Declaration of Trust;
- Management Agreement;
- Master Transfer and Servicing Agreement;
- Acknowledgement and indemnity agreement dated as of [■], 2017 made by IESO in favour of the Indenture Trustee;
- IESO Security Agreement;
- Trust Indenture;
- Warehouse Senior Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017;
- Warehouse Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017; and
- Warehouse Junior Subordinated Series 2017-1 Supplemental Indenture between the Financing Entity and the Indenture Trustee dated as of [■], 2017.

Provincial Support Agreement Term Sheet subject to approval.

Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") is provided exclusively to the parties listed herein in connection with the draft Fair Hydro Plan Act, 2017 and the regulations to be made thereunder (the "**Act**"). This Term Sheet is to be held confidential. Defined terms used herein have the meanings ascribed to them in the Act. The provincial support agreement (the "**Provincial Support Agreement**") will contain the terms and conditions set out in this Term Sheet in addition to such other representations, warranties, indemnities, and other terms and conditions as the Guarantor and the Beneficiaries (each as defined below) may reasonably require.*

Guarantor:	Her Majesty the Queen in right of Ontario, as represented by the Minister of Energy and the Minister of Finance.
Beneficiaries: -too broad	The ~~trust company acting as~~ indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**") ~~acting for the benefit of~~on behalf of itself and all other persons ~~who may have contractual~~having debt or other claims against a Financing Entity secured under the Master Trust Indenture (collectively, the "**Beneficiaries**") (including, without limitation, holders of senior and subordinated notes, senior and subordinated lenders, hedge counterparties, credit enhancers, liquidity providers, the Financial Services Manager, the Indenture Trustee ~~and~~, the trustee of the Financing Entity[1]) if the Financing Entity is a trust, and any other administrator of the Financing Entity.
Term: specific	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[21] after all ~~Funding Obligations~~funding obligations (to be defined to include principal, interest, fees, hedge settlement and termination obligations and other related amounts) of all Financing Entities have been repaid.
Performance Guarantee:	~~**[Upon the occurrence of a Performance Guarantee Event]**, the Indenture Trustee will be entitled to require the Guarantor to appoint a replacement servicer who will perform IESO's duties as servicer under~~Under the Master Sale and Servicing Agreement ~~between IESO, as seller and servicer,~~to be entered into by IESO and the Financing Entity~~, as purchaser~~, **[and OPG as Financial Services Manager]** ("**MSSA**")~~.~~, IESO will have obligations both

[1] ~~We have assumed that the initial Financing Entity will be a trust.~~

[21] This mirrors the requirement expected to be in the Regulations under the Act not to wind up, dissolve or liquidate a Financing Entity until at least one year after all of its Funding Obligations have been repaid.

	as a seller and as a servicer. Pursuant to a performance guarantee, the Guarantor will guarantee in favour of the Beneficiaries to perform, or cause the performance of (which may be by way of the appointment of a replacement servicer), the obligations of IESO as servicer under the MSSA and the Act including the obligations of any replacement servicer. The Guarantor will also guarantee the servicing obligations of the electricity vendors under the Act. The servicing obligations covered will include all obligations related to the collecting and remitting of clean energy adjustments and will protect the Beneficiaries from any risks arising from collections of clean energy adjustments being commingled with other amounts. In the event that the performance guarantee is unenforceable against the Guarantor, the Provincial Support Agreement will contemplate a separate legal obligation by the Guarantor to indemnify the ~~Indenture Trustee~~Beneficiaries for any losses that result.
~~**Performance Guarantee Event:**~~	~~A "Servicer Default" occurs under the MSSA[3]~~
~~**Payment Guarantee:**~~	~~**[Upon the occurrence of a Payment Guarantee Event and within [5/10] business days after receiving a demand from the Indenture Trustee]**, the Guarantor shall **[guarantee and indemnify the Indenture Trustee (for and on behalf of the Beneficiaries) by paying all regularly scheduled interest and principal payments during the term of a Financing Entity's contractual obligation to such Beneficiary]/[assume the contractual obligations of a Financing Entity to the Beneficiaries]**[4], which for greater certainty shall not include any default, penalty, prepayment, or make whole amounts.~~
Payment Guarantee Event:	A Payment Guarantee Event will occur if: (A) ~~if~~ the Legislative Assembly of Ontario repeals the Act; or (B) ~~if~~ the Legislative Assembly of Ontario amends the Act or a Regulation thereunder is amended in a way that adversely impacts the ability of a Financing Entity to fully recover an investment interest in order to fully pay all funding obligations and other obligations incurred by such Financing Entity in respect of such investment interest; or (C) ~~if~~ a court of competent jurisdiction (i) determines all or a portion of the Act to be *ultra vires* in a way that adversely impacts the ability of a Financing Entity to fully recover an investment

[3] ~~Each Servicer Default will include its own cure period before the event becomes a Servicer Default.~~
[4] ~~To confirm if Province will become the debtor under the applicable debt documentation or if the Financing Entity will continue to be the primary obligor with the Province acting as secondary obligor.~~

	interest in order to fully pay all funding obligations and other obligations incurred by such Financing Entity in respect of such investment interest or (ii) declares any funding obligations to be invalid or unenforceable; or (D) funding obligations are due and payable at a time when a market disruption (a period of [six months or more] when capital markets term funding is not available to effect refinancings of funding obligations) is occurring and, in the case of long term funding obligations only, a moratorium or limitation on the imposition and collection of clean energy adjustments to repay such funding obligations is in effect under the Act.
Payment Guarantee:	Upon the occurrence of a Payment Guarantee Event under clauses (A), (B) or (C) of the above definition: (x) the Guarantor shall assume and pay when due (without acceleration) all funding obligations and all other obligations of the Financing Entities to the Beneficiaries by paying all regularly scheduled amounts in respect thereof during the term of each Financing Entity's contractual obligation to such Beneficiaries; and (y) Beneficiaries holding funding obligations consisting of bonds [with a remaining term to maturity of greater than **one year**] shall have the option to put the bonds to the Financing Entity for a put price equal to 101% of the principal amount thereof plus accrued and unpaid interest. In connection with any put under this clause (y), the Guarantor shall guarantee payment of the put price and any related hedge breakage but shall not be responsible for any other default, penalty, prepayment or make whole amounts.
Limits under Guarantees:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or loss of profits.
Priority of Payments:	The priority of the Beneficiaries to any payment made by the Guarantor under the Provincial Support Agreement shall be governed by the priority provisions in the Master Trust Indenture.
Subrogation:	Where the Guarantor has repaid ~~a Beneficiary~~all Beneficiaries in full, to the extent of such ~~payment,~~payments the Guarantor ~~is~~shall be subrogated in and to all the rights of recovery of ~~such~~the Beneficiar~~y~~ies in respect of their applicable indebtedness and obligations and the security granted by a Financing Entity to the Indenture Trustee. After repayment by the Guarantor of all ~~amounts~~indebtedness and obligations owing to ~~a~~the Beneficiar~~y~~ies,

12 mos

delete

depends on wind up of TEL agmt

statute needed re ★

No

	the Indenture Trustee will acknowledge and agree on behalf of ~~such~~the Beneficiar~~y~~ies that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiar~~y~~ies has~~v~~e or may exercise in respect of the repaid indebtedness and obligations, all in accordance with the terms of the Master Trust Indenture. Prior to the repayment in full of the indebtedness and obligations owed to the Beneficiaries, the Guarantor shall have no rights of subrogation.
Notice Requirements:	The Indenture Trustee will be required to provide notice to the Guarantor of a ~~Performance Guarantee Event or~~ Payment Guarantee Event and may in such notice demand payment or performance of the Guarantor's obligation under the Provincial Support Agreement, as applicable.
Closing:	Date to be determined but no later than [■, 2017]. The Closing is the date on which the documents in respect of the MSSA, the Master Trust Indenture and all related documentation are executed and delivered.
Reporting Requirements of a Financing Entity:	The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture.
Conditions Precedent to Closing:	Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.[52]
Representations:	Customary representations and warranties of the Guarantor. ?
FIPPA:	Acknowledgement that the Guarantor is bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Guarantor or its agents or representatives in connection with the Transaction Documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	Customary confidentiality obligations to be negotiated and included. A Financing Entity and the Beneficiaries shall not, subject to applicable law, issue any press releases and other public announcements in respect of the Provincial Support Agreement without the prior written consent of the Guarantor.
Governing Law:	Province of Ontario

? want this being prepared

[52] Opinions on the validity and enforceability of Provincial Support Agreement will be required. - who is our outside counsel?

- who must they be provided to?
- not sure

Change of Law Assumption Agreement

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

*This indicative term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 (the "**Act**") and the regulations made thereunder (the "**Regulation**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act. The provincial protection and assurance arrangements contemplated in this Term Sheet will include such terms and conditions as the Minister of Energy and the Minister of Finance determine to be appropriate. This Term Sheet is not intended to create any obligations or be binding on the parties.*

Change of Law Assumption Agreement:	A Change of Law Assumption Agreement will be among the Obligor, a Financing Entity and an Indenture Trustee, acting for and on behalf of the Beneficiaries in accordance with a Trust Indenture.
Obligor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indenture Trustee:	An indenture trustee, acting for itself and on behalf of other persons entitled under an applicable Trust Indenture.
Beneficiaries:	The Indenture Trustee, acting for itself and on behalf of other persons entitled under Specified Claims.
Specified Claims:	Payment obligations of the Financing Entity that are secured under the Trust Indenture and that are approved as contemplated below under Obligor Approval. Specified Claims are expected to include principal and interest on senior debt obligations issued by the Financing Entity [and any other monetary obligations of the Financing Entity that rank ahead of or equally in priority of payment with the senior debt obligations of the Financing Entity pursuant to the Trust Indenture].
Assumption Events:	Any of the following would constitute an Assumption Event: (A) (1) the Legislature repeals (and does not replace on an equivalent basis) or amends the Act or any portion thereof; (2) the Legislature enacts or amends any other statute;

	(3) the Lieutenant Governor in Council repeals (and does not replace on an equivalent basis) the General Regulation made under the Act or any portion thereof; or (4) the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council makes or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*), in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims or (b) the Change of Law Assumption Agreement or any of the agreements under which Specified Claims arise without the agreement of the Indenture Trustee; or (B) a court of competent jurisdiction in a final and non-appealable judgement determines that all or a portion of the Act or the Regulation is *ultra vires* in a way that materially and adversely affects the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims.
Obligation to Assume Specified Claims:	Upon the occurrence of an Assumption Event, the Indenture Trustee will have the right to require the Obligor to pay the amount of Specified Claims on behalf of the Financing Entity when they become due and payable (without acceleration). The exercise of such right by the Indenture Trustee in accordance with the Trust Indenture shall constitute the only remedy available under the Change of Law Assumption Agreement. Under no circumstances shall the Obligor be obligated to pay or indemnify a Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.
Subrogation:	Upon paying an amount to a Beneficiary in respect of a Specified Claim, the Obligor shall become entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Specified Claim, including the security interest in each related investment interest and related property of the Financing Entity and the obligations of the Financing Entity owing under the agreements under which the Specified Claim arises. The Financing Entity may not change or consent to any change in such rights and interests without the Obligor's prior written consent.

Optional Replacement:	At any time following the exercise by the Indenture Trustee of its right to require the Obligor to pay Specified Claims when due and payable, the Obligor shall be entitled (but not obligated) to replace the Financing Entity as obligor and debtor and directly assume all of the Financing Entity's outstanding obligations and liabilities. The Financing Entity (including through the Financial Services Manager) will ensure that any obligation and liabilities undertaken or assumed by it will by their terms permit such a replacement and assumption (or, if applicable, satisfaction and termination) by the Obligor without additional cost or penalty and without any requirement for further consent, approval or agreement.
Term:	The Change of Law Assumption Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law Assumption Agreement will become effective in respect of a Specified Claim (including any modification) only after the Obligor has confirmed in writing that the Change of Law Assumption Agreement applies to such Specified Claim. The Change of Law Assumption Agreement will annex the applicable forms of program and series documents under which obligations of the Financing Entity may arise (e.g., including the form of trust indenture and series supplemental indenture) and set out the terms and conditions and process for obtaining the Obligor's ~~approval~~ and confirmation that the Change of Law Assumption Agreement will apply to Specified Claims. Such ~~approval~~ may be made conditional on such matters as may be specified by the Obligor, including a maximum amount applicable to Specified Claims. The Province's approval of the form of any IESO/Financing Entity transfer agreement and any amendments will also be required.
FIPPA:	The Change of Law Assumption Agreement will acknowledge that the Obligor will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Obligor, or any agent or representative of the Obligor in connection with the Change of Law Assumption Agreement, may be subject to disclosure in accordance with the act or as otherwise required by law.
Representations and Warranties:	To be determined by the Minister of Finance and Minister of Energy in negotiation with the Financing Entity.

Confidentiality Obligations:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Obligor and the Financing Entity.
Governing Law:	Province of Ontario.

Change of Law Assumption Agreement

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

*This indicative term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 (the "**Act**") and the regulations made thereunder (the "**Regulation**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act. The provincial protection and assurance arrangements contemplated in this Term Sheet will include such terms and conditions as the Minister of Energy and the Minister of Finance determine to be appropriate. This Term Sheet is not intended to create any obligations or be binding on the parties.*

Change of Law Assumption Agreement:	A Change of Law Assumption Agreement will be among the Obligor, a Financing Entity and an Indenture Trustee, acting for and on behalf of the Beneficiaries in accordance with a Trust Indenture.
Obligor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indenture Trustee:	An indenture trustee, acting for itself and on behalf of other persons entitled under an applicable Trust Indenture.
Beneficiaries:	The Indenture Trustee, acting for itself and on behalf of other persons entitled under Specified Claims.
Specified Claims:	Payment obligations of the Financing Entity that are secured under the Trust Indenture and that are approved as contemplated below under Obligor Approval.[1] Specified Claims are expected to include principal and interest on senior debt obligations issued by the Financing Entity [and any other monetary obligations of the Financing Entity that rank ahead of or equally in priority of payment with the senior debt

[1] The Province needs to know the identity of claimants and the nature of claims to be secured under the Trust Indenture. The Indemnity is expected primarily to benefit the holders of senior debt securities issued by the Financing Entity. Consider also including claims for amounts payable in priority to or *pari passu* with rated debt obligations in the priority of payments waterfall, such as third party service providers to the Financing Entity, swap counterparties, etc. The Province's approval of the categories and priority of payments permitted under the funding program will be needed.

	obligations of the Financing Entity pursuant to the Trust Indenture].
Assumption Events:	Any of the following would constitute an Assumption Event: (A) (1) the Legislature repealing (and not replacing on an equivalent basis) the Act or any portion thereof; (2) the Lieutenant Governor in Council repealing (and not replacing on an equivalent basis) the Regulation made under the Act or any portion thereof; (3) the Legislature, the Lieutenant Governor in Council, a minister of the Crown, an official of the government or a board or commission all the members of which are appointed by the Lieutenant Governor in Council enacts or amends any "regulation" (as defined in Part III of the *Legislation Act, 2006*)[, other than *[Insert exceptions re OEB, if applicable*[2]*]*], in each case, that materially and adversely affects (a) the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims or (b) the Change of Law Assumption Agreement or any of the agreements under which Specified Claims arise without the agreement of the Indenture Trustee; or (B) a court of competent jurisdiction in a final and non-appealable judgement determines that all or a portion of the Act or the Regulation is *ultra vires* in a way that materially and adversely affects the ability of the Financing Entity to receive amounts on its investment interest so that it can pay Specified Claims.

Leg doesn't make regs

what about new leg that cred rules

need to know which type facts

[2] Consider if the Legislature controls OEB orders – need to explain and assess OEB Order link to these circumstances.

Obligation to Assume Specified Claims:	Upon the occurrence of an Assumption Event, the Indenture Trustee will have the right to require the Obligor to pay the amount of Specified Claims on behalf of the Financing Entity when they become due and payable (without acceleration). The exercise of such right by the Indenture Trustee in accordance with the Trust Indenture shall constitute the only remedy available under the Change of Law Assumption Agreement. Under no circumstances shall the Obligor be obligated to pay or indemnify a Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.
Subrogation:	Upon paying an amount to a Beneficiary in respect of a Specified Claim, the Obligor shall become entitled to all of the applicable Beneficiary's rights and interests under and in respect of the Specified Claim, including the security interest in each related investment interest and related property of the Financing Entity and the obligations of the Financing Entity owing under the agreements under which the Specified Claim arises. The Financing Entity may not change or consent to any change in such rights and interests without the Obligor's prior written consent.
Optional Replacement:	At any time following the exercise by the Indenture Trustee of its right to require the Obligor to pay Specified Claims when due and payable, the Obligor shall be entitled (but not obligated) to replace the Financing Entity as obligor and debtor and directly assume all of the Financing Entity's outstanding obligations and liabilities. The Financing Entity (including through the Financial Services Manager) will ensure that any obligation and liabilities undertaken or assumed by it will by their terms permit such a replacement and assumption by the Obligor without additional cost or penalty and without any requirement for further consent, approval or agreement.
Term:	The Change of Law Assumption Agreement will continue for as long as any Specified Claim remains outstanding.

Obligor Approval:	The Change of Law Assumption Agreement will become effective in respect of a Specified Claim (including any modification) only after the Obligor has confirmed in writing that the Change of Law Assumption Agreement applies to such Specified Claim. The Change of Law Assumption Agreement will annex the applicable forms of program and series documents under which obligations of the Financing Entity may arise (e.g., including the form of trust indenture and series supplemental indenture) and set out the terms and conditions and process for obtaining the Obligor's approval and confirmation that the Change of Law Assumption Agreement will apply to Specified Claims. Such approval may be made conditional on such matters as may be specified by the Obligor, including a maximum amount applicable to Specified Claims. The Province's approval of the form of any IESO/Financing Entity transfer agreement and any amendments will also be required.
FIPPA:	The Change of Law Assumption Agreement will acknowledge that the Obligor will be bound by the *Freedom of Information and Protection of Privacy Act* (Ontario) and that any information provided to the Obligor, or any agent or representative of the Obligor in connection with the Change of Law Assumption Agreement, may be subject to disclosure in accordance with the act or as otherwise required by law.
Representations and Warranties:	To be determined by the Minister of Finance and Minister of Energy in negotiation with the Financing Entity.
Confidentiality Obligations:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Obligor and the Financing Entity.
Governing Law:	Province of Ontario.

Provincial Protection and Assurances

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 and the regulations to be made thereunder (the "**Act**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act.* sentence missing from intro

Change in Law Guarantee	
Guarantor:	The Province of Ontario
Guarantee Activation Events:	Any of the following would constitute a Guarantee Activation Event: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act or any Regulation made thereunder; — added "regulations" (B) the Legislative Assembly of Ontario causing to come into force any statute (including any amendment to the Act or a Regulation made thereunder), or causing to come into force or making any order-in-council or regulation, ~~or causing to come into force~~ any other discriminatory action (including by way of any order by the Ontario Energy Board), in any case, in a way that adversely affects the rights and interests of the Financing Entity under its investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its debt obligations on the same basis as before such amendment was effected; — covers OEB orders; no reference to materiality that has the effect of (C) the Legislative Assembly of Ontario directly or indirectly amending the Guarantee or any of the financing transaction agreements without the agreement of the Financing Entity; — needs definitions (D) a court of competent jurisdiction (i) declares any funding obligations of the Financing Entity to be invalid or unenforceable or (ii) in a final and non-appealable — what are funding obligations

materiality removed.	judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and interests of the Financing Entity, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its funding obligations on the same basis as before such judgement; or (E) there is a change in the organization, structure or operations of the IESO or a change in the electricity market structure or operations in any way that adversely affects the rights and interests of the Financing Entity under its investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its debt obligations on the same basis as before such amendment was effected **[NTD: Alternatively, with respect to the IESO servicing obligations, include the Servicing Guarantee language with respect to the IESO that was included in the last mark-up of the term sheet received from the Province.]**
this is the performance **Guarantee:** not assume - or just pay everything not just past due ?	Upon the occurrence of a Guarantee Activation Event, the Guarantor shall immediately assume and pay when due (without acceleration) all of the obligations of the Financing Entity. The obligations of the Financing Entity include its funding obligations as well as any other obligation the Financing Entity has related to the Fair Hydro program such as payments to service providers (such as trustees, auditors, etc), rating agencies and any fees due to the securities commissions ?
Term:	The Guarantee will continue for as long as the Financing Entity has any outstanding financing or other contractual obligations and until such obligations have all been paid in full or otherwise satisfied

Approval Requirement:	The guarantee agreement containing the terms and conditions contemplated by this term sheet shall be entered into prior to the Financing Entity incurring its first funding obligation. The Province shall enter into the guarantee based on forms of program and series financing documents required for each financing transaction (e.g., form of supplemental indenture). As long as the financing transaction documents are generally consistent with the agreed upon form, the Province's specific approval for specific funding obligations incurred by the Financing Entity will not be required. Subsequent approval is only needed if the form of such documents are materially changed. For greater certainty, deal specific terms (such as tenor, pricing, etc) shall not be considered a change in the form of transaction and series documents
FIPPA:	The parties will acknowledge that the Guarantor will be bound by the Freedom of Information and Protection of Privacy Act (Ontario) and that any information provided to the Guarantor, or any agent or representative of the Guarantor in connection with the Guarantee may be subject to disclosure in accordance with the act or as otherwise required by law
Representations and Warranties:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity
Confidentiality Obligations:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity
Governing Law:	Province of Ontario

Warehousing Takeout Risk and Servicing (Commingling) Risk *Note – these items are provided for information purposes only as these risks were included in the previous version of the term sheet as items that the Dealers/OPG were looking for the Province for protection against. The current proposals with respect to these items is described below. These do not contain any requirement for the Province to directly backstop these risks.*	
Commingling Risk (applies to Warehouse as well as any Term transactions)	
Commingling Risk Mitigant:	For any LDC which is not investment grade rated by each of the rating agencies which are rating the funding obligations (the "Non-Investment Grade LDCs"), either: (A) The IESO must post a Letter of Credit (L/C), or deposit funds in a Commingling Reserve Account in a quantum equal to the Commingling Risk Amount; or (B) The IESO, for so long as it is rated investment grade by the rating agencies which are rating the funding obligations, will assume responsibility for commingling risk by the LDCs and will agree to remit to the Financing Entity any clean energy adjustment amounts collected by the LDC, regardless of whether the LDC remitted those amounts to the IESO for remittance to the Financing Entity
Commingling Risk Amount:	An amount equal to the sum of the expected Clean Energy Adjustment collections from the Non-Investment Grade LDCs over the next [45-60] days
Commingling Risk Amount Reset Date:	Each settlement date for the Financing Entity (monthly)
Beneficiary:	The beneficiary of the L/C or the Commingling Reserve Account would be the Financing Entity and the Indenture Trustee for the benefit of the creditors of the Financing Entity. The Financing Entity and/or the Indenture Trustee would have the ability to draw down the L/C or draw on the Commingling Reserve Account for any clean energy adjustment amounts expected to be received from the IESO but which were not received due to those funds not being remitted from an LDC to the IESO for that period
L/C Provider:	An entity rated at least A+ (or equivalent)

Approvals:	The approach is subject to approval from the IESO, by the rating agencies rating the funding obligations of the Financing Entity and the risk management areas of the banks providing the warehouse facilities
Warehouse Takeout Risk	
Commitment Period for Warehouse[1]:	Expected to be 12-24 months
Takeout for Warehouse:	Expected to be every 3-6 months
Warehouse Default Event:	One of the events of default for the warehouse will be the failure to repay the warehouse facility at the end of the commitment term
Consequences of Warehouse Default Event:	If the Warehouse Default Event[2] described above occurs, all amounts funded through the warehouse would become immediately due and payable, subject to the Warehouse Default Payment Cap, and Default Pricing will be charged on any amounts funded through the warehouse facility
Default Pricing:	Step up in pricing to [x] until the moratorium period ends and thereafter stepping-up in increments of [y] every six months until the warehouse facility is repaid

[1] Please note that this is not intended to be an exhaustive list of terms for the warehouse facility, but rather is a summary of a few select terms that relate to the warehouse takeout risk.

[2] Note there may be other Warehouse Default Events beyond the takeout risk item described above. The consequences for a breach of these other Warehouse Default Events may be different than the one described above where the default is related to failure to takeout the warehouse facility by the end of the commitment period.

Warehouse Default Payment Cap:	For any given reference period following the occurrence of a Warehouse Default Event, the amount that shall be remitted to the Financing Entity for repayment of the warehouse facilities will be the sum of (x) the interest amount due on the warehouse facilities (which, for greater certainty will include any program fees) and (y) the lessor of: (a) The outstanding amount funded through the warehouse facilities; and (b) The maximum amount that can be charged for that period so that clean energy adjustments are equal to, but do not exceed, the fair allocation amount for such period.
Approval Requirement:	Subject to approval by the risk management areas of the banks providing the warehouse facilities which will in part depend on receipt of information on the fair allocation curve and an understanding of how long the "tail risk" could be following a Warehouse Default Event

Provincial Protection and Assurances

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 and the regulations ~~to be~~ made thereunder (the "**Act**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act. The provincial protection and assurance arrangements contemplated in this Term Sheet will include such terms and conditions as the Minister of Energy and the Minister of Finance determine to be appropriate.*

OK

Change in Law Guarantee	
Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	The indenture trustee, acting on behalf of itself and other persons having debt or other claims against the Financing Entity that are secured under a related trust indenture.[1] [who other than bondholders would be secured obligee -w
Guarantee Activation Events:	Any of the following would constitute a Guarantee Activation Event: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act or any Regulation[2] made thereunder; (B) the Legislative Assembly of Ontario causing to come into force any statute (including any amendment to the Act or a Regulation[3] made thereunder), or causing to come into force or making [any order-in-council or regulation, or causing to come into force any other discriminatory action (including by way of any order by the Ontario Energy Board)][4], ~~in any case, in a way~~ that adversely affects the ~~rights and interests of the Financing Entity under its~~

which regulations?

blend together

too broad

[1] The proposal is that the direct beneficiary of the Guarantee will be the indenture trustee acting on behalf of the secured obligees of the FE (rather than the FE itself, as we initially proposed). Assuming that characterization is okay for the Province (e.g., Would the Province be considered to be an issuer under US securities laws? How would the Province get the benefit of the joint enforcement and governance arrangements in the Trust Indenture? Accounting implications?), the ordinary right of subrogation should entitle the Province to claim against the FE in respect of the assumed obligations, including to enforce the security given by the FE in relation to the assumed obligations.

[2] Confirm description. Should this refer to LGIC for Regulations?

[3] LGIC?

[4] Too broad and unlimited.

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~~investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the~~ ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its debt obligations~~ on the same basis as before such amendment was effected~~;

(C) the Legislative Assembly of Ontario directly or indirectly amending the Guarantee or any of the financing transaction agreements without the agreement of the ~~Financing Entity~~indenture trustee;

- needs revision to refer to legislation doing this.
- which are the transaction doc's

should be the spec.

(D) a court of competent jurisdiction (i) [declares any funding obligations of the Financing Entity to be invalid or unenforceable[5] or (ii)] in a final and non-appealable judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects~~ the rights and interests of the Financing Entity, including, for greater certainty, in any manner that is reasonably expected to limit~~ the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its ~~funding~~debt obligations~~ on the same basis as before such judgement~~; or

debt instruments?

(E) [there is a change in the organization, structure or operations of the IESO or a change in the electricity market structure or operations in each case in any way that adversely affects the ~~rights and interests of the Financing Entity under its investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the~~ ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its debt obligations~~ on the same basis as before such amendment was effected~~

by legal only

~~[NTD: Alternatively, with respect to the IESO servicing obligations, include the Servicing Guarantee language with respect to the IESO that was included in the last mark-up of the term sheet received from the Province.]~~[6]

[5] Delete. The Province will not be directly involved in creating or issuing FE obligations, and so the Province should not be asked to take responsibility for the validity or enforceability of FE obligations. OPG will be in charge of structuring, documenting and implementing the FE obligations, and so any problem should be the responsibility of OPG.

[6] Consider if the Province should take responsibility for IESO/market related changes that have an incidental effect on the underlying cash flows?

Guarantee:	~~Upon~~The indenture trustee will have the right to require that, upon the occurrence of a Guarantee Activation Event, the Guarantor ~~shall immediately~~will assume and pay when due (without acceleration) all of the specified obligations[7] of the Financing Entity.[8] The specified obligations of the Financing Entity will include its funding obligations as well as any other obligation of the Financing Entity ~~has related to the Fair Hydro program such as payments to service providers (such as trustees, auditors, etc), rating agencies and any fees due to the securities commissions~~that ranks ahead of or equally with the rated debt obligations of the Financing Entity pursuant to the trust indenture. The exercise of such right by the indenture trustee in accordance with the trust indenture shall constitute the only remedy available under the Guarantee. Under no circumstances shall the Guarantor be obligated to pay or indemnify the Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.
Rights of Subrogation:	Without limiting the Guarantor's rights of subrogation as a guarantor by operation of law, upon becoming obligated to assume the obligations of a Financing Entity under the Guarantee, the Guarantor shall become entitled to all of the Beneficiaries' rights and interests under and in respect of each related investment interest and property of the Financing Entity, including under the agreements to which the Financing Entity is a party.[9]
Term:	The Guarantee will continue for as long as the Financing Entity has any outstanding financing or other contractual obligations that are or are intended to be secured by the Guarantee [and until such obligations have all been paid in full or otherwise satisfied].[10]
Approval ~~Requirement~~Requirements:	~~The guarantee agreement containing~~A Guarantee will become effective in respect of a Financing Entity's obligations (including any modification) only after the Guarantor has confirmed in

[7] Need to discuss how best to narrow this. Practical issues arise. Perhaps can limit to amounts payable in priority to or pari passu with rated debt obligations in the priority of payments waterfall. For example, if amounts payable to OPG are lower priority, these could be excluded. This would require the Province to pre-agree to the priority of payments permitted under the program. In any event, need to limit to "specified creditors".

[8] Need to come up with a mechanic where the Province is subrogated to the FE's cash flow rights under the investment interest(s) and the FE's contractual rights in relation to the transfer, swaps, indemnities, etc.

[9] If the Province assumes the obligations of an FE, it should become directly entitled to all of the FEs rights and interests. This wording is intended to give the Province direct rights to collect CEAs and claim indemnities otherwise available to FEs.

[10] Not sure what this phrase adds to the concept of "outstanding"?

	writing that the Guarantee applies to such obligations. A guarantee agreement between the Guarantor ~~(subject to approval by the Minister of Energy and the Minister of Finance, acting together)~~ and a Financing Entity, setting forth the terms and conditions ~~contemplated by this term sheet shall be entered into prior to the Financing Entity incurring its first funding obligation. The Province shall enter into the guarantee based on~~of the Guarantee on a basis consistent with this term sheet, will annex the applicable forms of program and series ~~financing documents required for each financing transaction~~documents under which obligations of the Financing Entity may arise (e.g., form of trust indenture and series supplemental indenture). As long as the ~~financing transaction~~ documents ~~are generally~~under which an obligation arises are and remain consistent in all material respects with ~~the~~such agreed upon ~~form, the Province's specific approval for specific funding obligations incurred by the Financing Entity will not be required. Subsequent approval is only needed if the form of such documents are materially changed. For greater certainty, deal specific terms (such as tenor,~~forms, the Guarantee provided for under the guarantee agreement will be effective in relation to such obligation. The forms of program and series documents may include alternative terms and conditions, including such matters such as tenor and pricing, ~~etc) shall not be considered a change in the form of transaction and series documents~~ parameters, on which the specific terms of permitted obligations may be based without the further written agreement of the Guarantor.[11]
FIPPA:	The parties will acknowledge that the Guarantor will be bound by the Freedom of Information and Protection of Privacy Act (Ontario) and that any information provided to the Guarantor, or any agent or representative of the Guarantor in connection with the Guarantee may be subject to disclosure in accordance with the act or as otherwise required by law.
Representations and Warranties:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity.
No Changes to an Investment Interest:	A Financing Entity may not change its rights and interests under an investment interest in any way that could adversely affect the Guarantor's prospective rights and entitlements upon subrogation

[11] As a separate matter, consider whether the Province needs the ability to pre-agree the form of any IESO/FE transfer agreement and approve any amendments. Is it sufficient that IESO will be a party?

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	in respect of the investment interest.
Confidentiality Obligations:	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity
Governing Law:	Province of Ontario

modify

?

Warehousing Takeout Risk and Servicing (Commingling) Risk *Note – these items are provided for information purposes only[12] as these risks were included in the previous version of the term sheet as items that the Dealers/OPG were looking for the Province for protection against. The current proposals with respect to these items is described below. These do not contain any requirement for the Province to directly backstop these risks.*	
Commingling Risk (applies to Warehouse as well as any Term transactions)	
Commingling Risk[13] Mitigant: there is a robust true-up in Act already.	For any LDC which is not investment grade rated by each of the rating agencies which are rating the funding obligations (the "Non-Investment Grade LDCs"), either: (A) The IESO must post a Letter of Credit (L/C)[14], or deposit funds[15] in a Commingling Reserve Account in a quantum equal to the Commingling Risk Amount; or (B) The IESO, for so long as it is rated investment grade by the rating agencies which are rating the funding obligations, will assume responsibility for commingling risk by the LDCs and will agree to remit to the Financing Entity any clean energy adjustment amounts collected by the LDC, regardless of whether the LDC remitted those amounts to the IESO for remittance to the Financing

[12] This mark-up is limited to identifying items of commercial significance that would impact the Province upon assumption of the related obligations under the Guarantee.

[13] Given the generous cross-subsidization implications of the existing finance amount calculation and failsafe true-up mechanism, this seems to be over-kill.

[14] Consider accounting implications.

[15] Economically inefficient due to negative carry implications. -cross-subsidization

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	Entity.[16]
Commingling Risk Amount:	An amount equal to the sum of the expected Clean Energy Adjustment collections from the Non-Investment Grade LDCs over the next [45-60][17] days.
Commingling Risk Amount Reset Date:	Each settlement date for the Financing Entity (monthly)
Beneficiary:	The beneficiary of the L/C or the Commingling Reserve Account would be the Financing Entity and the Indenture Trustee for the benefit of the creditors of the Financing Entity[18]. The Financing Entity and/or the Indenture Trustee would have the ability to draw down the L/C or draw on the Commingling Reserve Account for any clean energy adjustment amounts expected to be received from the IESO but which were not received due to those funds not being remitted from an LDC to the IESO for that period.[19]
L/C Provider:	An entity rated at least A+ (or equivalent).
Approvals:	The approach is subject to approval from the IESO, by the rating agencies rating the funding obligations of the Financing Entity and the risk management areas of the banks providing the warehouse facilities. Consideration of the arrangements will also form part of the approval process undertaken by the Ministers, on behalf of the Province.
Warehouse Takeout Risk	– W.O.
Commitment Period for Warehouse[~~1~~20]:	Expected to be 12-24 months.[21]
Takeout for Warehouse:	Expected to be every 3-6 months.

[16] Consider accounting implications.

[17] Consider rationale. Monthly reconciliations and settlement suggest that 30 days would be sufficient.

[18] Make consistent with Guarantee arrangement, so that the indenture trustee would be the direct beneficiary.

[19] Address rights of subrogation.

[~~1~~20] Please note that this is not intended to be an exhaustive list of terms for the warehouse facility, but rather is a summary of a few select terms that relate to the warehouse takeout risk.

[21] The rationale for the limited terms of the bank commitments should be understood. For example, if the reason is due to regulatory capital implications (e.g., which are customarily a governor under ABCP programs), the banks may be willing to consider longer commitments provided the additional costs associated with increased regulatory capital obligations are included in the economic model.

Warehouse Default Event:	One of the events of default[22] for the warehouse will be the failure to repay the warehouse facility at the end of the commitment term.
Consequences of Warehouse Default Event:	If the Warehouse Default Event[223] described above occurs, all amounts funded through the warehouse would become immediately due and payable, subject to the Warehouse Default Payment Cap, and Default Pricing will be charged on any amounts funded through the warehouse facility.
Default Pricing:	Step up in pricing to [x] until the moratorium period ends and thereafter stepping-up in increments of [y] every six months until the warehouse facility is repaid.[24]
Warehouse Default Payment Cap:	For any given reference period following the occurrence of a Warehouse Default Event, the amount that shall be remitted[25] to the Financing Entity for repayment of the warehouse facilities will be the sum of (x) the interest amount due on the warehouse facilities (which, for greater certainty will include any program fees) and (y) the lessor of: (a) The outstanding amount funded through the warehouse facilities; and (b) The maximum amount that can be charged for that period so that clean energy adjustments are equal to, but do not exceed, the fair allocation amount for such period.[26]
Approval Requirement:	Subject to approval by the risk management areas of the banks providing the warehouse facilities which will in part depend on receipt of information on the fair allocation curve and an understanding of how long the "tail risk" could be following a Warehouse Default Event. Consideration of the arrangements will also form part of the approval process undertaken by the Ministers.

[22] These should be spelled out in detail in the term sheet, given the economic consequences to the structure.

[223] Note there may be other Warehouse Default Events beyond the takeout risk item described above. The consequences for a breach of these other Warehouse Default Events may be different than the one described above where the default is related to failure to takeout the warehouse facility by the end of the commitment period.

[24] Consider cost consequences, including on assumption.

[25] This seems to conflict with the reality that the cash will not be available to service these amounts. Consider what is the consequence under the structure of an unremedied default event. If the impact is limited to step-up pricing on outstanding amounts, then there should be clarity that an unremedied default does not permit a realization of FE security (e.g., rights in relation to the CEAs opposite the specified consumers).

[26] It seems unclear how this relates to the requirements of section 21 of the OFHPA. This should not conflict with the implied limitation on charging CEAs during the moratorium period. For example, it does not reflect the readjustment amount concept.

	on behalf of the Province.

Document comparison by Workshare Compare on Friday, August 18, 2017 11:45:23 AM

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Rendering set	Standard

Legend:	
Insertion	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	98
Deletions	31
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	129

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Comparison Chart

Bold Underlined means important and changed in, added, to or missing from new version

Underlined means changed in, added, to or missing from new version

Note – I did not include Steven Ashbourne's comments/changes in the chart because it would have been difficult to parse. I have, however, borrowed from him in places for my analysis section.

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Preamble	This term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 and the regulations to be made thereunder (the "**Act**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act.	This term sheet (the "**Term Sheet**") relates to transactions contemplated to be undertaken under the Ontario Fair Hydro Plan Act, 2017 and the regulations to be made thereunder (the "**Act**"). This Term Sheet is to be held confidential. Unless otherwise specified, defined terms used herein have the meanings ascribed to them in the Act.	Term sheet will not be agreed to by the Province - only final agreement wording should be agreed to.
	No further text	**The provincial protection and assurance arrangements contemplated in this Term Sheet will include such terms and conditions as the Minister of Energy and the Minister of Finance determine to be appropriate.**	Restore removed text ✓
Guarantor (Old text: Servicing Guarantor)	The Province of Ontario	The Province of Ontario**, by the Minister of Energy and the Minister of Finance acting together.**	Restore removed text ✓

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Conditions that trigger guarantee	Guarantee Activation Events **Any of the following would constitute a Guarantee Activation Event:**	Servicing Guarantee / Indemnity of the Province **The Indemnitor will indemnify each Indemnitee for its costs, expenses and losses reasonably incurred by the Indemnitee because of third party claims made against the Indemnitee by one or more of its specified creditors that result from any of the following:**	Previously, there were two separate guarantees that are combined in one place in the new version. The second one (Indemnity of the Province) also contained the term present here in bold before the list.
	(A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act **or any Regulation made thereunder**	(A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act	Changes may not be appropriate, since there may be good reasons to repeal a regulation that would not interfere with the arrangements. Would need some kind of materiality test perhaps – or it might be captured by (b) -need to include the effect
	(B) the Legislative Assembly of Ontario causing to come into force **any statute** (including any amendment to the Act or a Regulation made thereunder), **or causing to come into force or making any order-in-council or regulation, or causing to come into force any other discriminatory action (including by way of any order by the Ontario Energy Board), in any case**, in a way that adversely affects the rights and interests of the Financing Entity under its investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay	(B) the Legislative Assembly of Ontario amending the Act or a Regulation made thereunder in a way that **materially and** adversely affects the rights and interests of the Financing Entity under its investment interest	The function of this provision is significantly changed by the alteration. The old version was limited to "the Act or a Regulation made thereunder" – the new version applies to "any statute… order-in-council or regulation, or… any other discriminatory action". Additionally, "materially" is now missing, meaning that any adverse change would be captured. The portion beginning "including, for greater certainty" seems to be saying that an adverse effect includes anything that impedes the Financing Entity's ability to

blend these two

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
	its specified creditors, including making payments on its debt obligations on the same basis as before such amendment was effected;		make payments or collect on its asset, but it is not clear to me what "on the same basis as before such amendment was effected" means.
	(C) **the Legislative Assembly of Ontario directly or indirectly amending the Guarantee or any of the financing transaction agreements without the agreement of the Financing Entity;**	[This was not present in the previous version] →	can only be done by statute
	a court of competent jurisdiction **(i) declares any funding obligations of the Financing Entity to be invalid or unenforceable or** (ii) in a final and non-appealable judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and interests of the Financing Entity, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its funding obligations on the same basis as before such judgement;	a court of competent jurisdiction in a final and non-appealable judgement determines that all or a portion of the Act is *ultra vires* in a way that **materially and** adversely affects the rights and interests of the Financing Entity **under its investment interest**	(i) is new – as far as I understand, the government will not be directly involved in the creation of the funding obligations – do we want to be guaranteeing them? Under (ii) several things were changed which broaden the scope of the provision: - "materially" was removed - "under its investment interest" was removed, which means instead of being a specific subset of rights and interests of the FE that are covered, it now appears to be all of them - Addition of "including, for greater certainty" – exact significance of this is not clear to me.

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
	(E) there is a change in the organization, structure or operations of the IESO or a change in the electricity market structure or operations in any way that adversely affects the rights and interests of the Financing Entity under its investment interest, including, for greater certainty, in any manner that is reasonably expected to limit the ability of the Financing Entity to receive amounts on its investment interest such that it can pay its specified creditors, including making payments on its debt obligations on the same basis as before such amendment was effected *[NTD: Alternatively, with respect to the IESO servicing obligations, include the Servicing Guarantee language with respect to the IESO that was included in the last mark-up of the term sheet received from the Province.]*	Pursuant to a Servicing Guarantee, the Servicing Guarantor will guarantee the performance, or cause the performance, of the obligations of IESO as servicer under the Act and under any agreement under which the applicable Financing Entity acquires an investment interest from IESO and IESO undertakes on-going obligations in respect of such investment interest, including servicing obligations undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. It is anticipated that such obligations will include matters related to the billing, collection and remittance of clean energy adjustments by IESO and electricity vendors, as the case may be, and regarding the commingling by IESO and electricity vendors of collections of clean energy adjustments with other amounts. In the event that the Servicing Guarantee is held to be unenforceable against the Servicing Guarantor, the Servicing Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Servicing Guarantor.	The basic concept of this part appears to have been changed. Previously, this was a guarantee that the IESO would perform its obligations under the Act. Now, it appears to prevent changes to the structure and operations of (i) the IESO, and (ii) the electricity market "in any way that adversely affects the rights and interests of the Financing Entity under its investment interest". The change appears to substantially broaden the scope of the guarantee – changing it from a guarantee that the IESO will perform its obligations to a guarantee that the IESO and the electricity market will not be changed. This seems like it could capture a lot of things it should not, especially since "adverse effect" does not need to be material. Additionally, the old version contemplated an alternative to the performance of the guarantee if it was held to be unenforceable against the province. This was removed. They noted that we might return to the old language, but that this is an alternative suggestion.

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Guarantee *Note – since one guarantee replaces two, I have separately compared it to each of the ;vious two)	Upon the occurrence of a Guarantee Activation Event, the Guarantor shall immediately **assume and pay when due (without acceleration) all of the obligations of the Financing Entity.** The obligations of the Financing Entity include its funding obligations as well as any other obligation the Financing Entity has related to the Fair Hydro program such as payments to service providers (such as trustees, auditors, etc), rating agencies and any fees due to the securities commissions	(SERVICING GUARANTEE) The Servicing Guarantor will have the option to satisfy its obligations under a Servicing Guarantee by **paying when due the amounts that would be remitted to the applicable Financing Entity** assuming that IESO and each electricity vendor had complied with its obligations under the Act and under any agreement under which the applicable Financing Entity acquires an investment interest from IESO and IESO undertakes on-going obligations in respect of such investment interest.	Pay when due (without acceleration) is similar in substance to this provision. However, the province is assuming the obligations of a different entity: in the original, the province was taking responsibility for the IESO's payments to the financing entity. In this version, the Province is taking responsibility for the Financing Entity's payments. Previously the text was just "pay", now it is "assume and pay".
	Upon the occurrence of a Guarantee Activation Event, the Guarantor shall immediately assume and pay when due (without acceleration) all of the obligations of the Financing Entity. **The obligations of the Financing Entity include its funding obligations as well as any other obligation the Financing Entity has related to the Fair Hydro program such as payments to service providers (such as trustees, auditors, etc), rating agencies and any fees due to the securities commissions**	(INDEMNITY) The Indemnitor will have the option to satisfy its obligations under an Indemnity in respect of a funding obligation by: (x) assuming and paying when due (without acceleration) **the regularly scheduled amounts due and payable in respect of the funding obligation** during the term and to the extent of the applicable Financing Entity's contractual obligations thereunder; or (y) **causing the acceleration of the funding obligation and paying the outstanding amount owing thereunder in full, including in the case of debt instruments issued by the applicable**	The new provision is structurally similar to X, but leaves out the option of Y entirely. Additionally, our (x) included only the contractual obligations of the Financing Entity that were due and payable in respect of the funding obligation. The new version also includes things such as payments to service providers, rating agencies, etc.

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
		Financing Entity by causing the redemption of the debt instruments and paying an amount equal to the then outstanding principal amount thereof plus accrued and unpaid interest up to the date of payment (without any default, penalty, prepayment or make whole premium).	
Term	The Guarantee will continue for as long as the Financing Entity has any outstanding financing or other contractual obligations and until such obligations have all been paid in full or otherwise satisfied	SERVICING GUARANTEE The Servicing Guarantor's obligations under a Servicing Guarantee in respect of a Financing Entity will continue during the term of any obligation incurred by the Financing Entity **that is or is intended to be secured by the Servicing Guarantee**.	The substance of this is relatively similar to the substance of the old provision, except that "that is or is intended to be secured by the Servicing Guarantee" has been removed.
		INDEMNITY An Indemnity will continue during the term of any obligation incurred by a Financing Entity **that is or is intended to be secured by the Indemnity.**	The substance of this is relatively similar to the substance of the old provision, except that "that is or is intended to be secured by the I" has been removed.
Approval Requirement	The guarantee agreement containing the terms and conditions contemplated by this term sheet shall be entered into prior to the Financing Entity incurring its first funding obligation. The Province shall enter into the guarantee based on forms of program and series financing documents required for each financing transaction (e.g., form of supplemental indenture). **As long as the**	SERVICING GUARANTEE The servicing obligations (including any amendments) to which the Servicing Guarantee relates, together with the provisions of any Servicing Guarantee itself, **will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.**	This has essentially been changed in its entirety. The old version essentially noted that the government has to approve an obligation before it will be bound by it. The new version stipulates that: 1) The guarantee agreement will be entered into prior to the Financing Entity incurring its first funding obligation

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
	financing transaction documents are generally consistent with the agreed upon form, the Province's specific approval for specific funding obligations incurred by the Financing Entity will not be required. Subsequent approval is only needed if the form of such documents are materially changed. For greater certainty, deal specific terms (such as tenor, pricing, etc) shall not be considered a change in the form of transaction and series documents	INDEMNITY The terms and conditions of the obligations incurred by a Financing Entity that are secured or intended to be secured by an Indemnity, together with the provisions of any Indemnity itself, **will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.**	2) The province will set out conditions that apply to the transactions it will be guaranteeing. 3) The guarantee automatically applies to any transaction that meets those conditions. 4) Terms of a deal such as pricing, etc. will not qualify as a change that would take the transaction outside of the conditions established by the province – only significant structural changes.
FIPPA	The parties will acknowledge that the Guarantor will be bound by the Freedom of Information and Protection of Privacy Act (Ontario) and that any information provided to the Guarantor, or any agent or representative of the Guarantor in connection with the Guarantee may be subject to disclosure in accordance with the act or as otherwise required by law	Acknowledgement that the Servicing Guarantor and the Indemnitor will be bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Servicing Guarantor or the Indemnitor, or any agent or representative of the Servicing Guarantor or the Indemnitor, in connection with the transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.	This seems to be somewhat different in words, but not really different in substance.
Representations & Warranties	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity	No analogous text – there was an old section which just said: Subject to approval of the Minister of Energy and the Minister of Finance acting together.	This is essentially a placeholder, and it replaces a similarly titled section which just reiterated that the agreement is subject to approval by MOF and MOE.

TERMS THAT EXIST IN NEW AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Confidentiality Obligations	To be determined based on what would be customary and appropriate for similar types of arrangements and is acceptable to the Guarantor and the Financing Entity	Confidentiality obligations of each Financing Entity and its assignees, representatives and agents as may be determined to be appropriate by the Minister of Energy and the Minister of Finance acting together	This is changed from being a determination of MOF and MOE, now it is a placeholder for similar types of arrangements and puts decision making power in the hands of the Financing Entity as well.
Governing Law	Province of Ontario	Province of Ontario	

TERMS THAT ONLY EXIST IN OLD AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Beneficiaries / Indemnitees	[N/A]	SERVICING GUARANTEE Each Financing Entity that owns an investment interest from time to time. A Financing Entity may grant a security interest over its rights and interests under a Servicing Guarantee to its creditors and contractual counterparties, including any indenture trustee acting on behalf of itself and other persons having debt or other claims against the Financing Entity that are secured under a related trust indenture.	
		INDEMNITY Each Financing Entity that owns an investment interest from time to time. A Financing Entity may grant a security interest over the Indemnity to specified creditors, including to an indenture trustee under a trust indenture on behalf of itself and other persons having debt or other claims against the Financing Entity secured under the trust indenture.	
Limits under Servicing Guarantee	[N/A]	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.	
Limits Under Indemnity	[N/A]	Under no circumstances shall the Indemnitor be obligated to indemnify any Beneficiary for consequential, special or punitive damages, or for economic loss or loss of profits.	

TERMS THAT ONLY EXIST IN OLD AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
Addressing Mismatches	[N/A]	If a Financing Entity proposes to incur one or more funding obligations that would require the Financing Entity to pay an aggregate amount during any reference period that would exceed the amount otherwise expected to be available to the Financing Entity during the reference period from its investment interests to pay such amounts (a "**Mismatch**"), the Financing Entity will, before incurring such funding obligations, undertake commercially reasonable efforts to arrange for commitments from highly creditworthy, market-based funding sources in accordance with the Financing Plan to enable it to satisfy its related payment obligations and thereby address any Mismatch.	
Possible Undertaking to Fund Mismatch	[N/A]	If a Financing Entity is unable to arrange for commitments from one or more highly creditworthy, market-based funding sources in accordance with the Financing Plan to address a Mismatch on commercially reasonable terms and conditions, the Minister of Energy and the Minister of Finance acting together may undertake on behalf of the Province of Ontario to provide funding commitments to the extent necessary to provide the Financing Entity with required funding to address the Mismatch. Any such	

TERMS THAT ONLY EXIST IN OLD AGREEMENT			
Section	**New Text**	**Old Text**	**Analysis**
		undertaking would be provided at or before the incurrence of the funding obligation that would otherwise result in the Mismatch and, if given, would be on such terms, including appropriate compensation to the Province of Ontario, and be subject to such conditions (for example and without limitation, funding being conditional on the occurrence of a market disruption that results in the non-availability of capital markets term funding to effect a refinancing of the funding obligation) as the Minister of Energy and the Minister of Finance determine are reasonable and appropriate in the circumstances. The decision to provide such an undertaking will be in the sole discretion of the Minister of Energy and the Minister of Finance.	

CONFIDENTIAL AND PRIVILEGED LEGAL ADVICE – Nov 30, 2017

Review of Blakes' mark-up dated November 28, 2017 as proposed response to OPG/Dealers/Torys/Oslers' Comments Daft November 24, 2017 [as updated by their further comments dated November 29, 2017 – not included yet.]

Process Agreement

1. Proposed Response: Agree with response to Footnote #1 – Closing mechanics are under consideration by Province.

2. P. 1 Recitals - OPG moved the provisions requiring delivery of the Initial Financing Plan, Initial Forecast and Initial Protection Agreement Maximum into the recitals as they suggest that these actions will have taken place prior the Ministers executing the Process Agreement and Protection Agreement. They would like to add a list of the "reference" agreements, the Initial Financing Plan and Initial Forecast as exhibits to the Process Agreement. This doesn't work for a number of reasons including:
   - The authority for provincial staff to "not object to" and "confirm" these documents flows from the Ministers' power to determine the terms and conditions of the limited guarantee.
   - The agreements and financing plan will not necessarily be in final form at the time that OPG is hoping that the Ministers sign the Process Agreement and Protection Agreement so it is not possible to attach the final form.
   - This reduces flexibility for the Province in reviewing these documents and revises the approach that has already been agreed to through negotiation to date on numerous iterations of the Process Agreement.
   - The recitals are inaccurate as the Province doesn't have a role to "not object to the financing plan" so it seems like OPG is trying to obtain some agreement on a point outside the parameters of the Process Agreement. Financing Plan is delivered to the Minister of Energy under the statute.
   - The Province's role as set out in s. 4.01(b) of the Process Agreement concerns how the Protection Agreement Maximum can be established: "the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan or (iii) the initial Protection Agreement Maximum is not less than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the province, address any inaccuracies and inconsistencies so the reasonable satisfaction of the province and OPG and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province."

   Proposed Response: Agree with Blakes' mark-up to revert to previous provisions on all these points.

3. P. 1, Recital 5 – Need to consider whether the delivery of the initial "Reference (formerly "Reviewed") Documents" should be moved into the body of the Process Agreement as an obligation for OPG and Province has right to object within 10 Business Days or such shorter period. OPG suggests adding a schedule that lists these documents but as noted above these Reference Documents are not likely to be in final form prior to Ministers executing agreements. How can these particular documents be identified as being the "Reference Documents" for the purposes of the agreement? Will they be sent under a particular covering letter or dated a particular date or version?

4. Concept of "not objecting to" vs "confirming or accepting". Understand that the preference is for the Province to "not object' rather than "confirm/accept". The original approach was for the Province to positively confirm in writing acceptance or approval but this was revised a few drafts ago. The reason for the revision was based to a certain degree on the limited time that the Province has to review any of the Reference Agreements and as a result the defined term was changed as well. So now certain documents (Reference (Reviewed) Agreements and the delivery of the Initial Forecast and subsequent Forecasts and Protection Agreement Maximum) are delivered to the Province and will be accepted unless the Province objects or disagrees with them. Right now there is a 10 day period for disagreeing in writing with forecast and Protection Agreement Maximum and then discussion and OPG to address discrepancies to reasonable satisfaction of Province and re-send Initial Forecast amount. Also the Province may "object" to any amendments of the "Reference Documents" by "delivery of an objection notice in writing delivered to OPG within 10 Business Days after it is provided to the Province" but no steps as to what happens when Province objects. Would it be informal discussion?
   Province to decide: Also, it is important now from a practical perspective to determine to whom at the Province the following documents are sent under the Process Agreement and who will determine whether or not to object/disagree on behalf of the Province:
   - Deliver initial Financing Plan (s. 2.01(a))
   - Deliver Reference Documents (as mentioned in recital or if moved to obligation under agreement)
   - Deliver Initial Forecast and initial Protection Agreement Maximum (s. 4.01(a))

✓ 5. 2.02(a)(v) – Addition of "unless waived in writing by the Province:
   Proposed Response: OK because any provision can be waived in writing by a party anyway.

✓ 6. 2.02(a)(v)(D) – This provision would not allow Financing Entity to enter into transactions where there is penalty or make-whole payment or consent right required for Province to assume the obligations?

Proposed Response: Need to discuss whether this is still relevant to be preserved if no assumption right?

7. 2.02(b)(iv) – OPG says they will not be aware of any event that with the passage of time or the giving of notice would be a Protection Event.– we propose adding "known to OPG" so that if they do know something they should not go ahead and exercise redemption etc. rights.
Proposed Response: Agree with Blakes mark-up to insert "known to OPG".

8. 2.02(c) – OPG inserted that its obligations under the Process Agreement are subject to OPG's obligation as FSM and as Manager. At the Tuesday evening meeting, we had asked them to narrow this wording so that it identified any points at which their fiduciary or other obligations under those agreements might conflict with the obligations under the Process Agreement, but they haven't narrowed it so the effect is that they could rely on this to say that in any particular case there is a conflict with their other role so they can't comply with their obligation to the Province
Proposed Response: Agree with Blakes mark-up not to accept this addition.

9. 2.02(c) – OPG wants to reference that nothing in the Protection Agreement limits the obligations of the Province under the Indemnity Agreement to indemnify OPG. OPG in its own capacity is not a party to the Protection Agreement. Don't understand why this needs to be added and how anything in the Protection Agreement would affect the Indemnity Agreement. [Need further explanation of disadvantage to Province.]
Proposed Response: Agree with Blakes mark-up not to accept this addition.

10. 3.01 Process Certificate: OPG has significantly reduced the amount of information and its responsibilities under the Process Agreement and is proposing to only provide the Province with a certificate under s. 3.01 in the same circumstances that OPG is giving one to the dealers under the Protection Agreement. The Province agreed to limit delivery of OPG's certificate under the Protection Agreement because dealers' counsel refused to agree to provision of a certificate in the case where funding obligations were amended (and the Province agreed to a compromise position where notice of amendments is given to the province under the trustee indenture amendment provisions). OPG has now deleted delivery of that certificate to the Province under the Process Agreement too, which was never discussed or agreed to by the Province. In addition, it has narrowed the obligations for which a certificate is provided under the Process Agreement to the narrower category of Certified Primary Obligations – borrowing, master ISDA agreement and other agreements for with a term of 3 years or longer (without termination within 3 years and above a $5 million thresholds, etc. The Province agreed to a narrower circumstance in the Protection Agreement on the insistence of dealers counsel that there was too much uncertainty associated with when the guarantee applied and so these categories were

delineated. Again, there was no discussion about so restricting the delivery of certificates under the Process Agreement. The principle is quite different and the Process Agreement is between the Province and OPG to ensure that Province receives sufficient information about obligations to which the Province's guarantee will apply.
Proposed Response: Revert to previous version of Process Agreement so that Province receives broader information and certificates. Consider specifically the following:

(1) → Certificate should be provided before amendment to guaranteed obligations as previously agreed.

(2) → Footnote 2 on p. 7 - When should certificate be provided? Previously said before earlier of pricing and incurrence of obligation. Have now agreed before "incurrence" In Protection Agreement – do we still want it before earlier of pricing and incurrence of obligation?

(3) - What is the scope of obligations for which certificate must be provided? Previously said Funding Obligations above a $ threshold. $ threshold has not yet been included. The way it is drafted it would apply a $ threshold to all types of obligations. Also, in Protection Agreement, have narrowed it to Certified Primary Obligations as set out above. Would say that this is too narrow for swaps - definitely want it for swap confirms in process agreement as ISDA Master is not informative of any transactions guaranteed. Need to consider this further – what about other obligations? Note that these certificates are informational – they don't determine whether the Limited Guarantee applies.

11. 3.02 Acknowledgement – OPG added a provision in which Province acknowledges that OPG will provide a certificate to Indenture Trustee and that if there is a Suspension Notice, OPG agrees not to deliver any further certificates. In general, this provision seems ok, but OPG deleted the Suspension Notice Delivery provision which should be re-inserted with the specific range of suspension events.
Proposed Response: Agree with Blakes mark-up to include Acknowledgement but also include a specific acknowledgement about Province's entitlement to deliver a Suspension Notice under the Protection Agreement if there is a Program Breach or Breach Event under Process Agreement and also inclusion in 6.01 of the definition of Breach Event.

12. 6.01 Election to Assume – Deleted.

<u>Protection Agreement</u>

✓ 1. Footnote 1 – Agree that logistics of closing are under consideration by Province

✓ 2. Footnotes 2 and 3 – Legal note to Torys' that Province will accept Torys opinion on due execution point and establishment of trust as financing entity point.

3. Recital 2 – Insert OIC number 1981/2017 made September 27, 2017

4. P. 2 – Proposed Response: accept deletion of "or amended" because no adherence conditions required on amendments. (compromise position that Province will get notice under Trust indenture).

5. 1.12 – Question from LSB only – Are we going to request original executed copies of these agreements by all parties? Typically we ask for originals. Perhaps we can discuss further?

6. 2.01(a) – Proposed Response: Agree to deletion of form of "Guarantee Settlement Statement" in advance given timing.

change is correct – O/S

7. 2.01(a)(iv)(B) – Proposed Response: Agree to revised wording. The change is to reflect the Province's subrogation rights. After a Protection Event the Province pays the whole amount owed to the Beneficiary, and not just the deficiency. The Province then receives any payments that it has a right to receive by being subrogated to the rights of the Beneficiary after making payment on the Limited Guarantee. [NTD: Blakes is undertaking further review on this issue and may suggest further changes.] Correcting provisions to trust indenture –

8. 2.01(b) – Proposed Response: OK, conforming change

9. 2.01(e) – Proposed Response: Fine for completeness.

10. 2.08 – Proposed Response: Fine, 8.01 is the section describing when Limited Guarantee ends – when all obligations are paid.

11. 4.01 – Addition of ability for Province in its sole discretion designate in writing that it is an Approved Obligation.
Proposed Response; OK, adds flexibility and it is in Province's sole discretion.

Add ISDA later O/S

12. 4.02 (b) – Changes to delivery by OPG of Certificate to **[Indenture Trustee][NTD: Is it sufficiently clear who the Certificate is delivered to?]** to confirm adherence of Guarantee to reflect business issues raised by dealers' counsel re: Protection Agreement. However, OPG has proposed using the same approach for the Process Agreement which is discussed above. We also do not agree to the description of the contents of the Certificate as it must say that OPG has complied with its obligations to the Province and internal requirements and processes in connection with adherence of Limited Guarantee to the Certified Primary Obligation, not that it has delivered all certifications to Province as required.
Proposed Response: Agree with Blakes mark-up.

→ ISDA master should include

Process

Additional Issues with respect to Certificates:

a) new narrowed concept of Certified Primary Obligation in Definitions for which a certificate will be required for adherence includes: (i) obligations incurred to fund investment interests or repay such funding, (ii) Master ISDA Agreement (not confirms or trades) and (iii) other contracts that have a term of more than 3 years and not terminable within 3 years and with aggregate amount payable of more than $5million.
b) timing of certificate (before incurrence but not more than 5 days in advance). – before it was the earlier of pricing and closing – but reflects discussion at meeting that it would be provided before closing.

13. 4.02(c) – re-insert reference to "in respect of which the Adherence Conditions had been satisfied" because it has to be clear that it is only a Refinancing of an existing Primary Obligation to which the Limited Guarantee already properly applied that is not affected by a Suspension Notice.

14. Proviso to 4.02 – Agree with wording that adherence conditions only apply to Certified Primary Obligations.

15. 4.03 – Reflects discussion at meeting permitting reliance on OPG certificate (without verifying officer authority) and allows for adherence if it can be demonstrated that OPG did comply with Process Agreement respecting delivering certificates for Certified Primary Obligation. However need to review wording "OPG had delivered to the Province all certifications required by the Province in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation – compare this to the wording in 4.02(b)?

16. 5.01(b) and 5.02 – Conforming – To confirm with Blakes.

17. Delete Article VI – Assumption Option - Given the changes that have been made and the reality that OPG is not building this right into the initial documents means that there is limited prospect for the assumption right to be meaningful. Even if exercised with respect to some obligations, does not remove the structure in the event of a Protection Event because there will still be outstanding obligations that are not capable of being assumed, except where the Province is subject to negotiations with certain creditors who may not allow assumption without compensation.

18. 6.03 – Agree with conforming Indenture Trustee reps to whatever is contained in Master Trust Indenture.

19. 7.01 – **Suspension of Adherence**. OPG has significantly reduced the rights of the Province with respect to the Province's rights to suspend the adherence of the Limited Guarantee to new obligations. This relates to the Process Agreement. In previous versions the Province had a right to suspend based on a breach of the Process Agreement, and this has been carved back to a narrower

right to suspend based on a breach in connection with an incurrence of a Primary Obligation. This needs to be revised to provide a link so that a breach of the Process Agreement can result in a suspension of the Limited Guarantee for new obligations going forward.
Proposed Response: Agree with Blakes' mark-up to insert clear suspension right for Program Breach and other defaults related to internal requirements and processes. [NTD: Review wording because perhaps all of the requirements don't actually concern ~~adherence~~ of the Limited Guarantee – consider this because adherence conditions only ~~apply to~~ Certified Primary Obligations.]

20. 7.01 – Note new wording requiring a certification from FSM prior to incurrence that proceeds will be used for refinancing of a Certified Primary Obligation incurred prior to the Suspension. Need to review and consider whether the Province is comfortable with allowing the FSM to make determinative when the suspension may have been a result of FSM breach. Difficult to predict scenarios under which suspension has occurred, but should consider what issues may arise.

21. 7.02 – Do not accept deletion of "amended" as Limited Guarantee should not apply where obligations are amended after suspension event.

22. [OLD 8.03] – Agree to delete Termination Notice as not necessary.

23. 8.01 – Agree to new wording that Agreement continues until amounts are paid under Limited Guarantee.

24. 8.02 – Notices to Province – to whom at MOF and MOE – Should it be Minister or someone else – most likely to be a payment demand? Any other notices that are likely?

25. Definition of Approved Obligation Amount – Should the regulation be referenced here? The "capping regulation" as opposed to just the Act. Footnote 5: **Needs review by MOE.**

26. Footnote 6: We would suggest that monthly draws under warehouse should be Certified Primary Obligations as they will be large amounts and significant obligations under the Protection Agreement.

27. See discussion above about definition of Certified Primary Obligation, including questions in Footnote 7.

28. Definition of Executive Officer – Footnote 8 – Looks like Torys has changed it to National Instrument in next draft which appears to be a better definition – more senior officers. – OFA to confirm whether this works.

29. Definition of Lien [used in 2.01(v)] and Loan Agreement [not used] – Do we need to include these? Lien is a generally understood concept, or do we need more specificity?

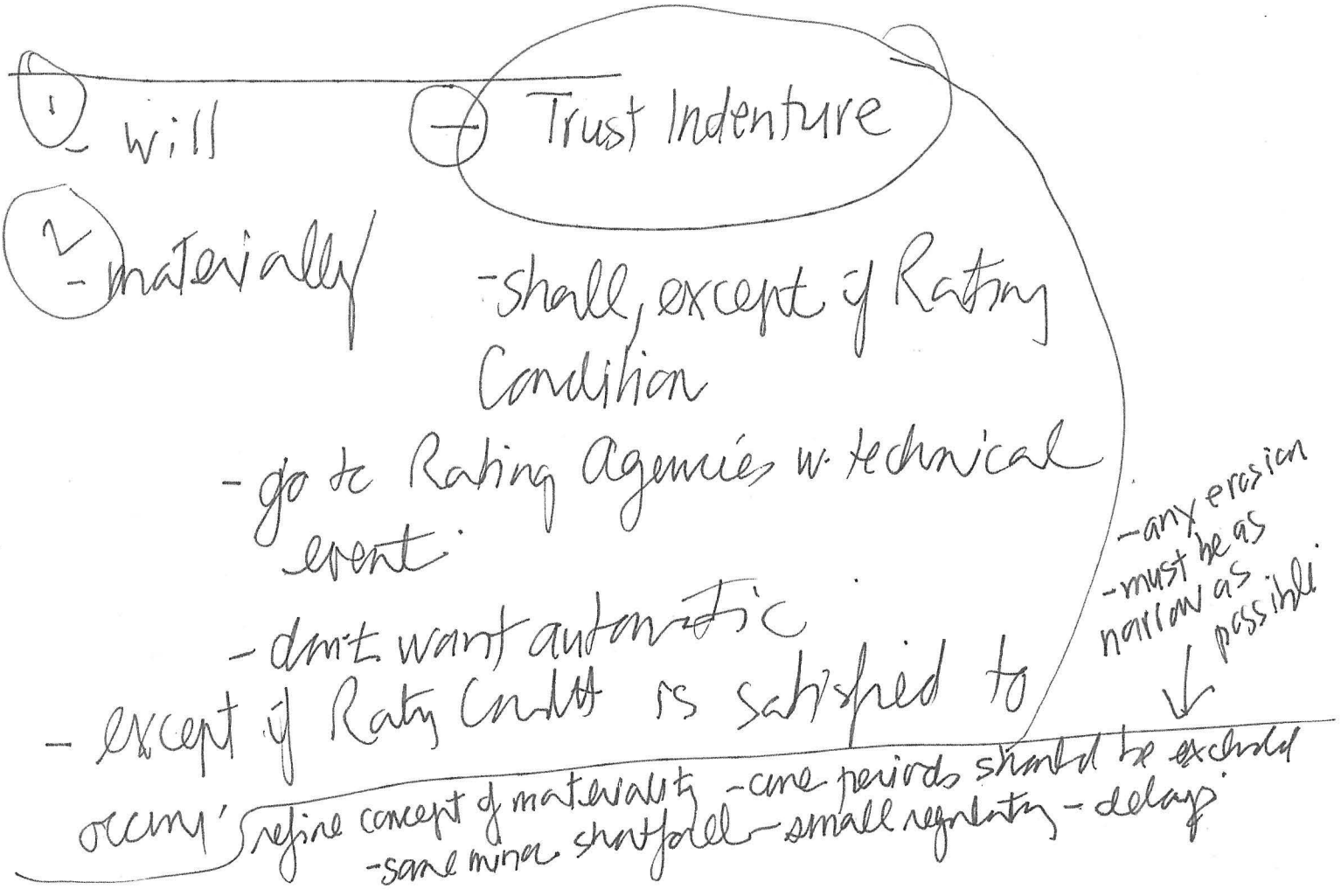
30. Definition of Master Agreement – Agree we should delete 1992 as it might not always be a 1992?

31. Definition of Primary Obligation – Footnote 9: Torys to confirm that this matches the Trust Indenture. See question in footnote.

32. Footnote 10 – Deletion because not in Trust Indenture, but a question for Torys because this concept may be included in a supplemental indenture.

33. Definition of "Refinancing" - Footnote 11 - This should be linked to the Act and Regulations. The General Regulation allows for a Refinancing to include amounts incurred within 6 months prior to the maturity date of a funding obligation. Need to consider whether this could lead to any problems with amounts that are intended for a refinancing but then are not used to refinance such debt. Suggesting some review with MOE on this point.

34. We should review the forms of notices attached to agreement.



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The information contained in this confidential shelf offering memorandum and delivered in connection with the private placement of the Notes by the Issuer is confidential, is for the confidential use of only those persons to whom it is delivered in connection with the offering solely for the purpose of considering the purchase of the Notes and its use for any other purpose is prohibited. By accepting this confidential shelf offering memorandum, each prospective purchaser agrees that it will not transmit, reproduce or make available to anyone, other than their respective advisors (so long as they advise such advisors of the confidential nature of such document), this confidential shelf offering memorandum (including any Term Sheets) or any information contained herein, and will not use such information (or permit its advisors to use such information) for any purpose other than to evaluate an investment in the Notes pursuant to an Offering.

CONFIDENTIAL SHELF OFFERING MEMORANDUM

New Issue By Way of Private Placement ■, 2017

FAIR HYDRO TRUST
Senior Secured Notes

Fair Hydro Trust (the "**Issuer**"), a special purpose trust established under the laws of the Province of Ontario by Computershare Trust Company of Canada, acting as trustee of the Issuer, has created a program providing for the offering and issuance of senior secured notes (the "**Notes**"), in one or several offerings. The Issuer was established in connection with the *Ontario Fair Hydro Plan Act, 2017* (the "**FHPA**"), legislation that reallocates certain electricity infrastructure costs over time and provides immediate rate relief to Specified Consumers (a category of consumers that generally is comprised of residential consumers, small businesses and farms). Under the FHPA, Ontario Power Generation Inc. ("**OPG**") is appointed as Financial Services Manager and is given the authority to, among other things, establish, or cause to be established, and manage one or more Financing Entities to raise debt financing (referred to as "**Funding Obligations**") for the purposes of the FHPA. The Issuer is a Financing Entity under the FHPA and the Notes are Funding Obligations being offered for the purposes of the FHPA.

The Notes do not constitute a debt, liability or other obligation of, or interest in, OPG or any of its other affiliates (other than the Issuer). The Notes are not a debt or general obligation of the Province of Ontario or any of its political subdivisions, agencies or instrumentalities. The Notes will not be insured or guaranteed by the Province of Ontario, OPG or any of their respective affiliates or any other person or entity. The Notes will be nonrecourse obligations, secured only by the collateral described in this confidential shelf offering memorandum. See *"Risk Factors"*.

The specific terms of any offering of Notes, including, without limitation, the aggregate principal amount of Notes being offered, the currency of the Notes, the issue price (at par, at a discount or at a premium), the issue, delivery and maturity dates, any redemption or repayment provisions, the interest (either fixed or floating and the circumstances, if any, under which the rate may be adjusted), the interest rate basis and interest payment dates, will be established by the Issuer and set forth in a term sheet (a "**Term Sheet**") that will accompany, be incorporated by reference in and form an integral part of this confidential shelf offering memorandum. Unless otherwise specified in a Term Sheet, the Notes will not be listed on any securities exchange.

The offering of Notes from time to time (each, an "**Offering**") will be made pursuant to exemptions from the prospectus requirements of applicable securities laws in each of the provinces [and territories] ***[NTD: Dealers to advise if Notes may be offered in the territories.]*** of Canada only to "accredited investors" (as such term is defined in National Instrument 45-106 – *Prospectus Exemptions* ("**NI 45-106**") and, in the case of a purchaser resident in Ontario, section 73.3(1) of the *Securities Act* (Ontario)) that are purchasing the Notes as principal and that are not individuals unless those individuals are also "permitted clients" (as such term is defined in National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**")). Purchasers of

Notes will be obliged to establish their qualification to invest in accordance with the requirements of the securities laws of the jurisdiction in which they reside. See *"Representations and Agreements of Purchasers"*. As each Offering will be made pursuant to exemptions from prospectus requirements of applicable securities laws, there will be restrictions on the resale of the Notes. See *"Risk Factors"* and *"Restrictions on Resale"*.

The Notes may be sold by the Issuer directly pursuant to applicable statutory exemptions or through agents designated by the Issuer from time to time (the "**Agents**"). See *"Plan of Distribution"*. Each Term Sheet will identify the Agents engaged in connection with the applicable Offering of Notes and will also set forth the terms of such Offering of Notes, including the net proceeds to the Issuer and, to the extent applicable, any fees payable to the Agents.

Subscriptions for the Notes will be received subject to rejection or allotment in whole or in part and the right is reserved to close the subscription books at any time without notice. The Notes will be delivered and recorded in book-entry form through CDS Clearing and Depository Services Inc. ("**CDS**") or another depository selected by the Issuer in accordance with the master trust indenture governing the Notes. The Notes will be represented by fully registered book-entry notes held by, or on behalf of, such depository, or a successor thereof, as the custodian of the book-entry notes, in its name or the name of its nominee.

The Notes will be issued under and will be entitled to the benefits of a master trust indenture dated the date of the closing of the first Offering between the Issuer, as issuer, and BNY Trust Company of Canada, as indenture trustee, as supplemented by supplemental indentures thereto.

In making an investment decision, prospective investors acknowledge that they have not relied on the Agents or any person affiliated with the Agents for investment or other advice and are relying on their own examination of the terms of an Offering, including the merits and risks involved and creditworthiness of the Issuer. Prospective investors are not to construe the contents of this document as legal, tax, accounting or investment advice. Prior to investing in the Notes, prospective investors should consult with their legal, tax, accounting and investment advisors to determine the consequences of an investment in the Notes. See *"Risk Factors"* for a discussion of certain factors that should be considered by prospective purchasers of Notes.

The Issuer is not a "reporting issuer" (as such term is defined under applicable Canadian securities laws) in any jurisdiction. The Issuer will only distribute the Notes in Canada under exemptions from the prospectus requirements of the securities laws of the provinces [and territories] where they are sold. The Notes may only be traded in Canada under exemptions from the prospectus requirements of the securities laws of the provinces [and territories] in which they are traded. See "Restrictions on Resale".

There is currently no secondary market for the Notes. There can be no assurance that a secondary market will develop or, if a secondary market does develop, that it will provide holders of Notes with liquidity for their investment or that it will continue for the term of the applicable Notes. Accordingly, purchasers of the Notes may be required to bear the financial risk of investing in such Notes until the maturity date of such Notes.

No person is authorized to give any information or make any representation other than those contained in this confidential shelf offering memorandum in connection with an Offering and any decision to purchase Notes should be based solely on the information contained herein. The Term Sheet applicable to such Offering and the investor presentation (the "**Investor Presentation**"), attached hereto as Exhibit [1], is included in, and forms an integral part of, this confidential shelf offering memorandum. The information contained in the Investor Presentation is current only as of the date thereof. The Investor Presentation may be updated and replaced by the Issuer in connection with an Offering and such updated Investor Presentation will be attached as Exhibit [1], and will be included in, and form an integral part of, this confidential shelf offering memorandum delivered in respect of such Offering.

This confidential shelf offering memorandum, including the Investor Presentation attached hereto, and any Term Sheets, are provided on a confidential basis to prospective investors for informational use solely in connection with their consideration of the purchase of Notes. Use for any other purpose is not authorized. Each Offering will be made solely on the basis of the information contained herein or incorporated by reference which has been furnished by the Issuer. No Agent makes any representation or warranty, express or implied, as to the accuracy, adequacy or

completeness of such information. Furthermore, no Agent has independently verified the information in this confidential shelf offering memorandum and has no responsibility for the accuracy, adequacy or completeness of any such information.

This confidential shelf offering memorandum does not contain all of the information that would normally appear in a prospectus qualified under applicable Canadian securities laws. Neither the delivery of this confidential shelf offering memorandum, at any time, nor any sales made pursuant hereto, will imply that the information contained herein is correct as of any time subsequent to the date set forth on the face page hereof and the Issuer and the Agents will not update such information except as may be required by applicable law.

All figures in this confidential shelf offering memorandum are in Canadian dollars unless otherwise noted.

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CAUTION REGARDING FORWARD-LOOKING INFORMATION

Some of the statements contained in this confidential shelf offering memorandum, including those relating to the Issuer's expectations, forecasts, strategic and other statements, are forward-looking information within the meaning of securities laws. Forward-looking information is contained [in the summary and the sections titled "■", "■", "■"]and "Risk Factors" of this confidential shelf offering memorandum. The forward-looking statements contained in this confidential shelf offering memorandum are presented for the purposes of assisting potential purchasers in making an investment decision regarding the Notes and may not be appropriate for other circumstances.

Often, but not always, forward-looking information can be identified by the use of forward-looking terminology such as "may", "will", "expect", "believe", "estimate", "plan", "could", "should", "would", "outlook", "forecast", "anticipate", "foresee", "continue" or the negative of these terms or variations of them or similar terminology. Forward-looking information is based on the reasonable assumptions, estimates, analysis and opinions of management of the Issuer made in light of its experience and perception of trends, current conditions and expected developments, as well as other factors that the Issuer believes to be relevant and reasonable at the date that such statements are made. A variety of factors, many of which are beyond the Issuer's control, may cause actual results to differ materially from the expectations expressed in the forward-looking statements. These factors include, but are not limited to, the following risks: ■. Please also see *"Risk Factors"*. ***[NTD: Update once risk factors are settled.]***

The Issuer does not intend, or assume any obligation, to update any forward-looking information except as may be required by applicable law.

[CONFIDENTIALITY

PRIOR TO RECEIVING THIS CONFIDENTIAL SHELF OFFERING MEMORANDUM, EACH PROSPECTIVE PURCHASER MUST HAVE ENTERED INTO A CONFIDENTIALITY UNDERTAKING WITH THE ISSUER (IN A FORM ACCEPTABLE TO THE ISSUER) WHICH PROVIDES THAT BY ACCEPTING A COPY OF THIS CONFIDENTIAL SHELF OFFERING MEMORANDUM, EACH PROSPECTIVE PURCHASER AGREES THAT ALL INFORMATION CONTAINED HEREIN, ALL DOCUMENTS DELIVERED IN CONNECTION HEREWITH AND ALL OTHER INFORMATION OBTAINED BY PROSPECTIVE PURCHASERS IN RELATION TO THE ISSUER (COLLECTIVELY, THE "**CONFIDENTIAL INFORMATION**") IS CONFIDENTIAL, THAT NONE OF THE CONFIDENTIAL INFORMATION WILL BE COPIED, TRANSCRIBED, RECORDED OR TRANSMITTED BY THE RECIPIENT FOR ANY REASON OR USED FOR ANY PURPOSE OTHER THAN EVALUATING AN INVESTMENT IN THE NOTES, AND THAT THE RECIPIENT WILL HOLD ALL OF THE CONFIDENTIAL INFORMATION IN CONFIDENCE AND WILL NOT PROVIDE ANY OF IT TO ANY THIRD PARTIES OTHER THAN PERSONS RETAINED TO ADVISE THE RECIPIENT WITH RESPECT TO THE PURCHASE OF THE NOTES (SO LONG AS THEY ADVISE SUCH PERSONS OF THE CONFIDENTIAL NATURE OF SUCH CONFIDENTIAL INFORMATION), WITHOUT THE PRIOR WRITTEN CONSENT OF THE ISSUER.] ***[NTD: Dealers to confirm how the OM will be delivered to prospective purchasers, i.e. will electronic distribution be subject to prospective purchasers clicking on a confidentiality undertaking before being given access?]***

DOCUMENTS INCORPORATED BY REFERENCE

A Term Sheet containing the specific variable terms in respect of an Offering will be delivered to prospective purchasers of Notes together with this confidential shelf offering memorandum and will be deemed to be incorporated into this confidential shelf offering memorandum as of the date of such Term Sheet, solely for the purposes of the Notes issued under such Term Sheet.

[MARKET AND INDUSTRY DATA

Certain of the information contained herein concerning the electricity industry in Ontario is based upon or derived from information provided by [third party consultants and] other industry sources. Neither the Issuer nor the

Agents guarantee the accuracy of such information or has independently verified the assumptions upon which projections of future trends and performance are based. This information and data is subject to change and cannot always be verified with complete certainty due to limits on the availability and reliability of raw data, the voluntary nature of the data gathering process and other limitations and uncertainties inherent in any statistical survey of market or industry data. As a result, prospective purchasers should be aware that the information and data set forth herein, and estimates and beliefs based on such information and data, may not be reliable.] ***[NTD: Revise as appropriate once OM disclosure is substantially settled.]***

SUMMARY

This summary does not contain all the information prospective purchasers should consider before investing in the Notes. Prospective purchasers should read this entire confidential shelf offering memorandum carefully, including the section entitled "Risk Factors". Capitalized terms used and not otherwise defined in this summary have the meanings ascribed to them in the glossary starting on page [55] of this confidential shelf offering memorandum.

[NTD: Working group to consider whether it would be useful to reproduce or pull forward any charts included in the body.]

Issuer:	Fair Hydro Trust, a special purpose trust established under the laws of the Province of Ontario.
Manager:	Ontario Power Generation Inc. ("**OPG**").
Summary of the Program:	The program provides for the offering and issuance by the Issuer of Notes, in any number of series (each a "**Series**"), in one or several offerings (each, an "**Offering**"). A Term Sheet will describe particulars of the terms of each Series of Notes and will be incorporated by reference and form an integral part of this confidential shelf offering memorandum. Each Series of Notes will be issued under the master trust indenture dated the date of the closing of the first Offering (the "**Master Trust Indenture**") between the Issuer, as issuer, and BNY Trust Company of Canada, as indenture trustee (the "**Indenture Trustee**"), and a supplemental indenture dated the date of the issuance of such Series between the Issuer and the Indenture Trustee (a "**Supplemental Indenture**" and collectively with the Master Trust Indenture, the "**Indenture**") authorizing that Series.
Ontario's Fair Hydro Plan:	On June 1, 2017, the Ontario government passed the *Ontario Fair Hydro Plan Act, 2017* (the "**FHPA**"), legislation that reallocates certain electricity infrastructure costs over time and provides immediate rate relief to Specified Consumers (a category of consumers that generally is comprised of residential consumers, small businesses and farms). Under the FHPA, OPG is appointed as Financial Services Manager and is given the authority to, among other things, establish, or cause to be established, and manage one or more Financing Entities to raise debt financing (referred to as "**Funding Obligations**") for the purposes of the FHPA. The Issuer is a Financing Entity under the FHPA and the Notes are Funding Obligations being offered for the purposes of the FHPA. See *"Ontario's Fair Hydro Plan —Background"*.
Transferor and Servicer:	The Independent Electricity System Operator (the "**IESO**") is a not-for-profit corporation established under the *Electricity Act, 1998*. The IESO manages the operation and reliability of Ontario's bulk power system and administers the wholesale electricity market.
Investment Interest:	Each month, the IESO will determine the shortfall resulting from the rate reduction mandated by the FHPA and record the amount in a variance account (such amount, the "**Regulatory Asset**"). The IESO may transfer a specified portion of the Regulatory Asset to the Issuer pursuant to a master transfer and servicing agreement dated the date of the closing of the first Offering between the Issuer and the IESO (the "**Master Transfer and Servicing Agreement**"). Upon the transfer of a specified portion of the Regulatory Asset to the Issuer, the Issuer will

acquire an Investment Interest in the Investment Asset, which is a current and irrevocable property right consisting of the right to impose, invoice, collect, receive and recover the Clean Energy Adjustment from Specified Consumers in accordance with the FHPA. See *"Ontario's Fair Hydro Plan —Regulatory Asset"*, *"Ontario's Fair Hydro Plan — Investment Interest"* and *"The Transferor and Servicer"*.

Clean Energy Adjustment:

- this is the charge on ratepayers beginning May 1, 2021.
- will be a separate line item

The FHPA imposes an irrevocable and non-bypassable charge referred to as the Clean Energy Adjustment that will be determined by the Financial Services Manager and will be converted by the Ontario Energy Board (the "**OEB**") into a $/kWh rate and added to the electricity invoices sent to Specified Consumers. See *"— Statutory Duties of the OEB"* below.

The Clean Energy Adjustment is an amount determined by the Financial Services Manager for each month in a Reference Period (which is generally a six-month period, subject to more frequent determinations in certain circumstances) and consists of the sum of: (i) the estimated Finance Amount in respect of the Reference Period, which includes all financing and other expenses of the Issuer for such Reference Period, and (ii) the True-up Amount for such Reference Period, all divided by the number of months in the applicable Reference Period.

The "**True-up Amount**" is comprised of any Finance Amounts not previously recovered through the Clean Energy Adjustment during preceding Reference Periods plus other anticipated shortfalls. The True-up Amount accounts for historical and reasonably foreseeable differences between amounts invoiced and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, variations in billings due to variations in electricity consumption and amounts resulting from a default of Specified Consumers, an Electricity Vendor or the IESO, whether in its capacity as an Electricity Vendor or its activities as agent or otherwise under the FHPA. The Financial Services Manager is obligated to calculate the True-up Amount in respect of each Reference Period so long as all Funding Obligations and other Finance Amounts have not be paid in full. The Financial Services Manager may also, at any time during a Reference Period, determine an interim True-up Amount if it reasonably forecasts that the collection of the Clean Energy Adjustment will be insufficient to pay the estimated Finance Amount for such Reference Period.

Commencing May 1, 2021, the Clean Energy Adjustment will be included on invoices sent to Specified Consumers, and collected and remitted to the Issuer to pay amounts owing on the Notes and all other administrative and other financing expenses of the Issuer. From July 1, 2017 until April 30, 2021 (the "**Moratorium Period**"), no Clean Energy Adjustment amounts are permitted to be collected from Specified Consumers. During the Moratorium Period, the sole source of funds for payment on the Notes, and the Issuer's other carrying costs, will be the IESO. See *"— Financing of Carrying Costs During Moratorium Period"* below.

Acceleration of Indebtedness:

If all or any portion of the principal amount of any indebtedness of the Issuer (including one or more Series of Notes) becomes due and

payable before its scheduled payment date, maturity date or redemption date, then the estimated Finance Amount used by the Financial Services Manager to determine the Clean Energy Adjustment after such time shall be determined without regard to the fact that such amount has become immediately due and payable, unless and only to the extent that the amount of the Clean Energy Adjustment is capable of being increased based on the Fair Allocation Amount for such period. See *"— Fair Allocation Amount and Financing Plan"* below. However, upon such acceleration, the priority of payments to creditors of the Issuer will change so that all accelerated Notes will be repaid in full before any further payments are made to holders of subordinated indebtedness, including the subordinated debt held by OPG. See *"— Subordinated Debt"* below.

Statutory Duties of the OEB:

The OEB is an independent public regulatory agency established under the *Ontario Energy Board Act, 1998*. The *Ontario Energy Board Act, 1998* provides the OEB with the authority to regulate Ontario's electricity market, including the activities of transmitters and distributors.

Under the FHPA and the regulations promulgated thereunder (the "**Regulations**"), the OEB is responsible for determining the rates at which Specified Consumers are invoiced to recover the Clean Energy Adjustment. The rates are expressed in $/kWh and determined by the OEB by dividing (i) the aggregate Clean Energy Adjustment in respect of the relevant period of time as determined by the Financial Services Manager by (ii) the forecast provided by the IESO of electricity consumption of Specified Consumers in respect of such period. See *"— Statutory and Servicing Duties of the IESO"* below.

Statutory Duties of Electricity Vendors:

Electricity is distributed to almost all Specified Consumers in Ontario through a network of local distributors. These local distributors include approximately 65 ***[NTD: Figure based on IESO presentation. To be confirmed.]*** municipal electricity distributors, including a few privately owned electricity distributors and Hydro One Inc. These local distributors, together with the licensed retailers and the IESO in circumstances where it directly invoices a Specified Consumer are referred to as the "**Electricity Vendors**". [Approximately 60% of the electricity distribution to Ontario's approximate 5.1 million consumers is supplied by only three Electricity Vendors.] ***[NTD: To be confirmed.] [NTD: What percentage of these consumers are "Specified Consumers"? If this data is relatively static, include in base shelf OM. If not, consider including in Investor Presentation only.]***

The FHPA and the Regulations require Electricity Vendors to invoice Specified Consumers for the Clean Energy Adjustment commencing May 1, 2021, as determined by applying the rate set by the OEB, which is required to be included as a separate line item on each invoice sent to Specified Consumers. Electricity Vendors are also required to collect, as agent of the Issuer, amounts in respect of the Clean Energy Adjustment, deposit such amounts into a segregated account established for the purpose of receiving those amounts, hold such amounts in trust for the benefit of the Issuer until deposited with the IESO and remit such amounts to the IESO for the benefit of the Issuer. If an Electricity Vendor does not receive payment in full of an invoice issued to a

Specified Consumer, the Electricity Vendor shall allocate the payment received on a *pro rata* basis to the Clean Energy Adjustment and the other amounts payable under the particular invoice. It is a deemed condition of their license that Electricity Vendors comply with the FHPA.

As security for the obligations of Electricity Vendors under the FHPA, the IESO will, if requested by the Issuer once the Clean Energy Adjustment is being invoiced to Specified Consumers, provide the Issuer with a letter of credit in an amount equal to $■, representing approximately one month of Clean Energy Adjustment amounts to be collected by all non-investment grade-rated Electricity Vendors. Alternatively, if acceptable to the Issuer, the IESO may provide an equivalent performance guarantee instead of a letter of credit.

Non-bypassability:

The FHPA mandates that an amount in respect of the Clean Energy Adjustment shown on an invoice issued to a Specified Consumer is determinative of the amount of the consumer's indebtedness resulting from the Clean Energy Adjustment, and is irrevocable on invoicing such Specified Consumer and may not be set off or bypassed. See *"Ontario's Fair Hydro Plan — Clean Energy Adjustment"*.

Management Duties of OPG:

OPG has entered into a management agreement (the "**Management Agreement**") with the Issuer pursuant to which the Issuer has delegated to OPG, as manager (the "**Manager**"), all of the powers and duties of managing the Issuer, including determining whether to incur Funding Obligations (including Offerings of Notes) to acquire an Investment Interest or refinance existing Funding Obligations, negotiating and entering into Program Agreements, maintaining accounts and banking records, preparing any offering documents to be furnished by the Issuer to prospective purchasers of Funding Obligations (including the Notes) and preparing financial statements and tax filings on behalf of the Issuer.

Manager →

In addition to the powers and duties delegated to the Manager under the Management Agreement, OPG is also required to comply with its duties as Financial Services Manager under the FHPA, including preparing the Financing Plan to evaluate whether potential Funding Obligations should be incurred for the purposes of Financing Entities acquiring and financing an Investment Interest, determining the amount of the Clean Energy Adjustment inclusive of any True-up Amount, notifying the OEB of the Clean Energy Adjustment inclusive of any True-up Amount and ensuring that Funding Obligations are incurred in a manner consistent with the Financing Plan. OPG may also administer the Investment Interest of behalf of the Issuer and any other Financing Entities. Subject to OEB approval, OPG is also entitled to charge the Issuer a fee to earn a return and to recover costs and expenditures incurred by OPG in relation to the establishment, management and administration of the Issuer and its Investment Interest. See *"The Manager"*.

FSM →

Statutory and Servicing Duties of the IESO:

The IESO is required, as agent of the Issuer, to receive Clean Energy Adjustment amounts paid to it from Electricity Vendors, deposit such amounts promptly into a segregated account established for the purpose of receiving the Clean Energy Adjustment, hold such amounts in trust on behalf of the Issuer and remit such amounts to the Issuer on a

IESO remits CEA to Issuer

monthly basis, subject to daily remittance being required in certain limited circumstances. In addition, the IESO provides certain reporting and other servicing duties in favour of the Issuer, including providing forecasts of electricity consumption by Specified Consumers to the OEB and the Financial Services Manager, using commercially reasonable efforts to cause Electricity Vendors to establish segregated accounts into which Clean Energy Adjustment amounts are deposited, remitting such amounts to the Issuer and fulfilling certain additional reporting requirements. Generally, all servicing duties provided by the IESO to the Issuer are provided at no cost to the Issuer. However, the Issuer will reimburse the IESO for its direct costs for the provision of any services to the Issuer that are not required to be performed by the FHPA or the Regulations and that are otherwise not recovered or recoverable by the IESO under the *Electricity Act.* ***[NTD: Subject to finalization of MTSA]*** See *"The Transferor and Servicer."*

Financing of Carrying Costs during the Moratorium Period:

During the Moratorium Period and ending on July 31, 2021, the IESO is required under the Regulations to pay and remit to the Issuer any amounts charged to the IESO by the Issuer in respect of its "carrying costs". "Carrying costs" include all funding costs (such as interest on the Notes) and other expenses of the Issuer, other than repayment of principal on any debt obligations of the Issuer (including repayment of principal on the Notes).

IESO pays Issuer's carrying costs during moratorium.

Pursuant to the Master Transfer and Servicing Agreement, on or before the fourth business day of each calendar month, the Issuer will submit a carrying costs statement to the IESO certifying the amount of carrying costs estimated to be incurred by the Issuer in the following month. On or before the [14th] business day [of each calendar month/following receipt of the Issuer's statement], the IESO is required to deliver the amount specified to the Issuer in the carrying costs statement. See *"The Transferor and Servicer"*. The IESO has a $2 billion unsecured credit facility provided by the Ontario Electricity Financial Corporation, expiring ■, 20■, available for the purposes of paying the Issuer's carrying costs.

IESO has a line of credit from OEFC $2 billion.

As security for the performance of its obligation under the Regulations to pay the Issuer's carrying costs, the IESO has granted the Issuer a first-priority security interest in all of its accounts receivable[, which includes the global adjustment charge]. ***[NTD: To be confirmed and subject to finalization of IESO security agreement.]*** See *"The Transferor and Servicer"*.

IESO has granted Issuer a security interest in all of its A.R.

Change of Law Protection Agreement:

[NTD: Subject to finalization of agreement.] Pursuant to the Change of Law Protection Agreement in favour of the Issuer and the Indenture Trustee, upon a Protection Event, the Province of Ontario is required to either, at its election: (i) pay the Notes as they become due and payable, or (ii) assume the Notes as primary obligor. ***[NTD: Drafted to assume we will only ever use this OM for an issuance of Notes that we know will constitute an "Approved Obligation" under the Change of Law Protection Agreement.]*** The occurrence of a Protection Event in and of itself will not result in the acceleration of the Notes. ***[NTD: Consider additional disclosure regarding assumption mechanics and consequences]***

may at its election

Each of the following constitutes a "**Protection Event**":

(a) the Ontario legislature repeals, and does not replace on an equivalent basis, or amends, the FHPA, in whole or in part, as in effect on the date hereof;

(b) the Ontario legislature enacts or amends any other statute;

(c) the Lieutenant Governor in Council repeals, and does not replace on an equivalent basis, the regulations made under or in connection with, the FHPA, in whole or in part, as in effect on the date hereof;

(d) the Lieutenant Governor in Council, a minister of the Province, an official of the government or board or commission appointed by the Lieutenant Governor in Council makes or amends any regulation; or

(e) there is a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or any entity controlled by the Province,

in each case, that materially and adversely affects the ability of the Issuer to receive amounts on its Investment Interest so that it can pay the Notes in accordance with their terms or the Change of Law Protection Agreement or any of the agreements under which the Notes arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable, or

(f) a court determines that all or a portion of the FHPA or the Regulations, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Issuer to receive amounts on its Investment Interest so that it can pay Obligations Secured (including the Notes) that has the effect of the Issuer not having sufficient funds to pay Obligations Secured (including the Notes) that have become due and payable.

[As a condition to any Offering of Notes, OPG will be required to deliver a certification to the Agents confirming that the Change of Law Protection Agreement applies in respect of the particular Series of Notes offered.]

See *"Change of Law Protection Agreement"*.

Fair Allocation Amount & Financing Plan:

The Fair Allocation Amount is an amount calculated under the FHPA and the Regulations by the Minister of Energy in respect of each Reference Period and which, among other things, allocates the estimated Clean Energy Costs in proportion to the relative attribution of Clean Energy Benefits among Specified Consumers.

The Financial Services Manager is required to prepare a Financing Plan under the FHPA to evaluate whether Funding Obligations should be incurred by the Issuer or other Financing Entities and having regard to certain principles, including that Funding Obligations should be incurred so that the estimated Finance Amount that would become due

and payable during a Reference Period will reasonably align with the Fair Allocation Amount determined in respect of such Reference Period. In other words, the Financing Plan should contemplate the issuance of Funding Obligations from time to time, with terms that would result in Clean Energy Adjustments being payable by Specified Consumers that align with the purposes of the FHPA, namely, to ensure that present and future Specified Consumers are bearing their share of the costs of providing Clean Energy Benefits. Notwithstanding the above, the FHPA provides that each Funding Obligation is deemed to be consistent with the Financing Plan and to provide for the reasonable alignment of the estimated Finance Amount with the Fair Allocation Amount.

Currently, the Clean Energy Costs have been determined to exceed the Clean Energy Benefits, with the result that the Fair Allocation Amount is negative. This means that the Minister of Energy has determined that current Specified Consumers have borne more than their fair share of Clean Energy Costs (with the consequent rate reduction for current Specified Consumers). The Fair Allocation Amount is expected to be negative until at least May 2024. Accordingly, any Notes maturing at a time when the Fair Allocation Amount is negative are expected to be refinanced through the issuance of another Series of Notes. If Notes cannot be refinanced on or before maturity, holders of such Notes will have the ability to accelerate their Notes resulting in Clean Energy Adjustments that would otherwise be used to pay holders of Subordinated Notes being used to pay holders of accelerated Notes.

[The Financing Plan accommodates the issuance of a variety of corporate debt instruments and borrowings, including term bank debt, revolving bank lines of credit, publicly issued and privately placed debt securities (such as the Notes), commercial paper, medium-term notes, interest rate and currency swaps and other hedging instruments. Based on the Fair Allocation Amounts and subject to the availability of debt financing, it is expected that the Issuer (or other Financing Entities) may incur up to approximately $■ of indebtedness annually over the next ■ years, comprised of approximately $■ of senior debt (including the Notes) and approximately $■ of subordinated debt.] ***[NTD: Consider what we will need to say about the Issuer's plans to raise additional debt, including the use of the short-term warehousing facility. Will investors expect to see a copy of the Fair Allocation Curve?]***

Subordinated Debt:

Concurrent with every issuance of senior debt by the Issuer, including any Offering of Notes, it is expected that OPG will subscribe for subordinated debt of the Issuer in an amount not to exceed 49% of all outstanding debt of the Issuer at any time. OPG expects to fund approximately 44% of the subscription price for the Issuer's subordinated debt through equity investments in OPG by the Province of Ontario, with the remaining approximately 5% being funded from OPG's available funds, including all or a portion of the proceeds of any offerings by OPG of medium term notes.

Under the Master Trust Indenture, the Issuer will be required at all times to ensure that the aggregate outstanding principal amount of all subordinated debt not be less than ■% of the aggregate outstanding principal amount of all of the Issuer's Funding Obligations. ***[NTD:***

	Term sheet will include a pro forma cap table which will show the sub debt issued on each closing. Discuss whether any additional disclosure regarding financial or other terms of sub debt are relevant to holders of senior Notes.]
Use of Proceeds:	The proceeds from each Offering may be used to (i) acquire an Investment Interest from the IESO pursuant to the Master Transfer and Servicing Agreement, (ii) refinance indebtedness of the Issuer (including other Series of Notes), (iii) pay Offering and related costs of the Issuer and (iv) fund specific reserve accounts. The Term Sheet for each Offering of Notes will identify the amount of proceeds that will be used for such specified purposes.
Interest Rate:	Fixed, floating or otherwise, as determined by the Issuer and as set out in the Term Sheet applicable to such Offering.
Interest Payment Dates:	As determined from time to time by the Issuer and as set out in the Term Sheet applicable to such Offering.
Scheduled Final Payment Dates: ***[NTD: Term to conform to MTI]***	As determined from time to time by the Issuer and as set out in the Term Sheet applicable to such Offering.
Maturities:	As determined from time to time by the Issuer and as set out in the Term Sheet applicable to such Offering.
Ranking:	The Notes will be direct, secured and unsubordinated obligations of the Issuer, and will at all times rank equally and proportionately with each other and all other senior indebtedness issued by the Issuer from time to time pursuant to the Indenture, without discrimination or preference. ***[NTD: Subject to priority ranking of warehouse facilities.]***
Redemption:	Notes may be subject to redemption prior to maturity at the times and redemption price set out in the Term Sheet applicable to such Offering.
Priority of Payments:	■. ***[NTD: To be drafted based on settled MTI.]***
Security:	■. ***[NTD: To be drafted based on settled MTI.]***
Currency:	Notes may be denominated in any currency. The currency for a particular Series of Notes will be set out in the Term Sheet applicable to such Offering.
Minimum Subscription:	Minimum principal amount of $150,000 for any purchase of Notes in denominations having an integral multiple of $1,000. The minimum subscription and denomination of the Notes may be varied as set out in the Term Sheet applicable to such Offering.
Purchase for Cancellation:	The Issuer may, at any time, purchase at any price all or any of the Notes in the market or by invitation for tenders or by private contract. Any Notes so purchased shall be cancelled.
Credit Rating:	The Term Sheet for each Offering will identify the rating of the Notes at the time of such Offering. It will be a condition of closing of each Series of Notes that final ratings as identified in the Term Sheet

	applicable to such Offering will be obtained. ***[NTD: To consider whether a minimum credit rating will be assigned.]***
Distribution Method:	The Notes may be offered and sold by the Issuer on a private placement basis in Canada to "accredited investors" (as such term is defined in NI 45-106 and, in the case of a purchaser resident in Ontario, section 73.3(1) of the *Securities Act* (Ontario)) who purchase the Notes as principal and that are not individuals unless those individuals are also "permitted clients" (as such term is defined in NI 31-103). By purchasing Notes and accepting a purchase confirmation in respect thereof, a purchaser will be agreeing with and representing to the Issuer and any Agent participating in the trade that the purchaser is an accredited investor purchasing as principal along with certain other matters. See *"Representations and Agreements of Purchasers"*.
Book-Entry Form:	The Notes will be delivered and recorded in book-entry form only through CDS or another depository selected by the Issuer in accordance with the Master Trust Indenture. Each Series of Notes will be evidenced by a global note held by such depository, registered in its name or the name of its nominee, on behalf of all holders of such Series of Notes. See *"Depository Services"*.
Resale Restrictions:	Resale of the Notes will be subject to restrictions under applicable securities legislation which vary depending on the relevant jurisdictions. **The Notes may only be sold on a basis that is exempt from the prospectus requirements of applicable securities legislation through an appropriately registered dealer or pursuant to an exemption from the registration requirements of applicable securities legislation.** See *"Restrictions on Resale"*.
Risk Factors:	The purchase of the Notes is subject to risks. Prospective investors should carefully consider the risk factors and other information in this confidential shelf offering memorandum and the Term Sheet for each Offering before purchasing Notes, including the discussion set forth under "Risk Factors", and any additional disclosure set out in the Term Sheet for each Offering.
Indenture Trustee:	BNY Trust Company of Canada.
Issuer Trustee:	Computershare Trust Company of Canada.

THE ELECTRICITY INDUSTRY IN ONTARIO

General Overview

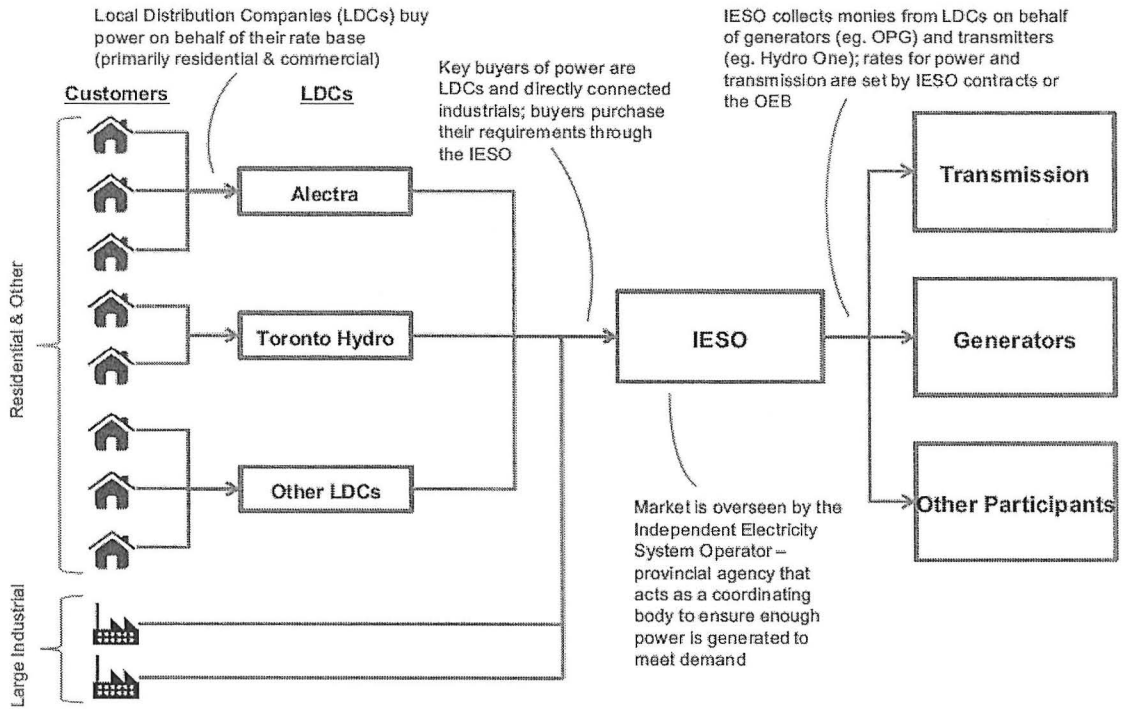
The Ontario electricity industry is principally comprised of three components:

- *Generation*: the production of electricity from other forms of energy, such as wind, solar, hydropower, natural gas and nuclear;
- *Transmission*: the transfer of electricity across high-voltage power lines from generating facilities to local areas; and
- *Distribution*: the delivery of electricity within local areas to homes and businesses using lower voltage power lines.

Ontario currently has more than 36,000 megawatts ("**MW**") of electricity generating capacity built in the province and supplied by generators connected to the high-voltage transmission grid. An additional 3,200 MW of electricity generating capacity comes from smaller scale generators that are connected to distribution grids. According to the Independent Electricity System Operator ("**IESO**"), approximately 35% of Ontario's electricity capacity comes from renewable resources such as wind, solar, water and biofuel.

The structure of Ontario's electricity industry underwent significant changes in the late 1990s and early 2000s. Prior to April 1, 1999, Ontario Hydro, a Crown corporation, supplied most of Ontario's electricity generation and transmission needs. Consistent with initiatives taken in other electricity markets in North America at the time, the electricity industry was restructured in order to encourage greater competition. Ontario's competitive electricity market was opened by the IESO on May 1, 2002 and the market is used to administer the purchase and sale of wholesale electricity in Ontario. According to the IESO's 2016 Annual Report, approximately $17 billion flows through Ontario's wholesale electricity market each year. The following diagram depicts a simplified flow of funds between the key industry participants:

[NTD: Terminology in charts to be updated. Dealers to provide editable versions.]



Since the opening of the competitive market, Ontario's power supply mix has experienced significant change. As a result of provincial government policy, coal-fired generation, which at its peak accounted for approximately 6,500 MW of capacity, has been eliminated. In addition, a significant amount of new capacity has been added. New natural gas powered capacity of approximately 5,000 MW as of the end of 2016 has largely replaced the peaking capacity previously provided by coal-fired generation, while the return to service of Units 1 and 2 at the Bruce A nuclear generating station in 2012 added approximately 1,500 MW of baseload nuclear generation. New wind and solar capacity of over 6,700 MW has also been added as of the end of 2016. These changes have resulted in significantly increased costs of electricity to consumers in Ontario.

[While electricity supply in Ontario has increased, the province's electricity demand as reported by the IESO has fallen[, by approximately 9 percent over the last decade,] largely due to changes in economic conditions and conservation measures. Moreover, the addition of small scale solar generation embedded in the distribution system has reduced the level of demand that is supplied by transmission-connected generation. Reducing electricity demand by encouraging conservation and demand management has been a key part of the Government of Ontario's plan to reduce greenhouse gas emissions from the province's electricity sector. Shorter-term fluctuations in electricity demand are impacted by variations in seasonal weather conditions. The IESO reported that Ontario's electricity demand was 137.0 TWh in 2016, excluding electricity exports out of the province.] ***[NTD: Consider whether to include disclosure regarding electricity supply and demand in shelf OM or only the Investor Presentation. If included, update to refer to the 2017 Long-Term Energy Plan released on October 26, 2017.]***

Real-time energy supply needs are met through the wholesale electricity market administered by the IESO. Generators offer their generation into this real-time energy market, or "spot market", to be dispatched by the IESO. The IESO receives hourly offers from electricity generators and importers to provide energy, along with bids to withdraw energy from a few flexible loads and exporters, and then schedules the lowest-cost offers and bids needed to meet demand. Virtually all generators in Ontario also have bilateral contracts with the IESO that provide for payments in addition to the market price of electricity that is paid to generators.

Key Industry Participants

Ontario Power Generation Inc.

Ontario Power Generation Inc. ("**OPG**") is a corporation formed under the *Business Corporation Act* (Ontario), whose sole shareholder is the Province of Ontario. In 1999, when Ontario Hydro was split up in anticipation of deregulation, OPG was formed to hold all of the generation assets. OPG has divested itself of certain of those assets, but remains the largest generator in Ontario. The Province is the sole shareholder of OPG.

OPG is Ontario's largest clean energy generator. As at December 31, 2016, OPG operated two nuclear generating stations, three thermal generating stations, 65 hydroelectric generating stations and one wind power turbine. OPG's mission is to provide low cost power in a safe, clean, reliable and sustainable manner for the benefit of its customers and its sole shareholder, the Province of Ontario. For the year ended December 31, 2016, OPG's electricity generation accounted for over 50 percent of the total energy generated and injected into Ontario's electricity transmission system, as reported by the IESO. OPG is one of the most experienced and largest generating companies in Canada with a broad set of relationships and capabilities. OPG is also experienced in successful complex financing arrangements of large capital projects, including the recently completed Lower Mattagami project.

Additional information about OPG is available at www.opg.com.

The IESO

The IESO is a non-share capital corporation created under the *Electricity Act, 1998* (Ontario). It was created as an amalgamation of two predecessor entities, one of which was also called the IESO ("**Predecessor IESO**") and the other of which was called the Ontario Power Authority ("**OPA**"). Predecessor IESO was responsible for operating the real-time electricity markets in Ontario, as well as administering the market rules. The OPA was the counterparty that entered into bilateral power purchase contracts with generators. These two entities were merged statutorily on January 1, 2015 into the IESO, which now carries out all of these functions. As a non-

share capital corporation, the IESO does not have any shareholders or owners, but it is governed by an independent Board of Directors whose chair and directors are appointed by the Minister of Energy.

Additional information about the IESO is available at www.ieso.ca.

The Ontario Energy Board

The Ontario Energy Board ("**OEB**") is a non-share capital corporation created under the *Ontario Energy Board Act, 1998*. The OEB is an independent and impartial public regulatory agency. The *Ontario Energy Board Act* provides the OEB with the authority to regulate Ontario's electricity market, including the activities of Electricity Vendors.

The OEB has the following objectives in relation to the electricity industry:

(a) to protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service;

(b) to promote the education of consumers;

(c) to promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry;

(d) to promote electricity conservation and demand management in a manner consistent with the policies of the Province, including having regard to the consumer's economic circumstances;

(e) to facilitate the implementation of a smart grid in Ontario; and

(f) to promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities.

The OEB is responsible for, among other things, approving transmission and distribution rates in Ontario, as well as payment amounts for OPG's nuclear and hydroelectric generation. It also approves the construction, expansion, or reinforcement of transmission lines greater than two kilometres in length, as well as mergers, acquisitions, amalgamations and divestitures involving distributors, transmitters and other entities which it licenses. The activities of transmitters and distributors are subject to the conditions of their licenses, which require compliance with a number of industry codes issued by the OEB, as well as with the market rules that are administered by the IESO. These codes and other requirements prescribe minimum standards of conduct and service for licensed participants in the electricity market.

Electricity Vendors

As part of the restructuring of Ontario's electricity industry, the province's municipally-owned electricity distributors were reorganized into separate business corporations. These distributors are typically referred to in Ontario as local distribution companies, or "**LDCs**". A number of these distributors were sold by their municipal owners, who benefitted from time-limited exemptions from the transfer tax that applies to certain transfers that they would otherwise have had to pay on the fair market value of the utility. This led initially to a significant reduction in the number of local distribution companies in Ontario. As at [October 31, 2017], approximately [65] LDCs provided electricity to approximately five million customers in Ontario. ***[NTD: To be confirmed and updated.]*** The distribution industry in Ontario is fragmented, with the 15 largest local distribution companies accounting for approximately 78% of Ontario's electricity customers. ***[NTD: To be confirmed.]*** An LDC is responsible for distributing electricity to customers in its OEB-licensed service territory, and in some cases to other distributors. A service territory may cover large portions of all of a particular municipality, or an otherwise-defined geographic area. Distribution customers include residential, commercial and industrial end-users, such as governments, schools

and hospitals. At multi-unit buildings within an LDC's service territory, there may be a unit sub-metering service provider that metering services for each individual unit. These sub-metering service providers are also licensed by the OEB.

Electricity Prices

There are two main components that make up the commodity cost of electricity in Ontario, the hourly Ontario energy price ("**HOEP**") and the global adjustment charge.

- HOEP is set by the IESO on an hourly basis based on bids and offers in the real-time energy market that is administered by the IESO.

- The global adjustment charge is also paid by loads. It is established monthly by the IESO in accordance with regulations and is used to collect funds used by the IESO to pay certain "out of market" costs that are not compensated by HOEP, including the cost of energy supply contracts with generators and payments made to certain generators, namely OPG, that are entitled to a regulated rate of return based on OEB-established payment amounts. For all loads with a peak demand under 500 kW (in other words, all Specified Consumers as defined below under "*- Ontario's Fair Hydro Plan*"), the global adjustment charge is based on electricity usage on a per unit basis.

Prior to the FHPA being passed, the amount collected by the IESO on account of HOEP and global adjustment was approximately equal to the IESO's liabilities, subject to certain periodic true-ups and adjustments to keep the IESO whole.

At the request of the Minister of Energy in 2004, the OEB created the "**Regulated Price Plan**" or "**RPP**", which establishes time-of-use and tiered prices for residential and small commercial customers. Prior to the introduction of the FHPA, the RPP prices were reviewed and changed every six months based on an updated forecast and any accumulated differences between the amounts collected from RPP consumers and the amount paid to generators in the previous period. RPP prices are now established in accordance with the FHPA. Most Specified Consumers are billed for electricity based on the Regulated Price Plan, although some Specified Consumers may be invoiced HOEP and the global adjustment charge by their LDC for electricity they have consumed. [The IESO has also stated that there is one Specified Consumer connected directly to the transmission system and settled by the IESO, not an LDC.] ***[NTD: Is this material?]***

While most residential and small commercial consumers in Ontario choose to purchase their electricity under the RPP, consumers in Ontario may instead choose to buy their electricity from a licensed retailer pursuant to a retail contract that provides a fixed rate for electricity over a specified period. These customers are also required to pay the global adjustment in addition to the rate under their retail contract.

In addition to HOEP and global adjustment charges, or RPP, as the case may be, electricity consumers pay a number of other uplifts and charges, such as transmission and distribution tariffs.

[NTD: Can we give an indication of how many of the 5.1 million consumers are "Specified Consumers" and the percentage that this group contributes to overall electricity demand and rate collection?]

[NTD: Consider disclosing the percentage of total charges that the Clean Energy Adjustment will represent.]

ONTARIO'S FAIR HYDRO PLAN

Background

On June 1, 2017, the Ontario government passed the *Ontario Fair Hydro Plan Act, 2017* (the "**FHPA**"), legislation that reallocates certain electricity infrastructure costs over time and provides immediate rate relief to

consumers. From July 1, 2017 until April 30, 2018, electricity rates payable by Specified Consumers (a category of consumers that generally is comprised of residential consumers, small businesses and farms) will in effect be the rate that would result in a representative consumer being charged an invoice amount that is 25%[1] less than the rate that would otherwise have been determined by the Ontario Energy Board ("**OEB**") for that period (the "**Fair Adjustment**").

Under the FHPA, a "**Specified Consumer**" is:

(a) a person who has an account with an Electricity Vendor for the supply of electricity in the Province of Ontario and meets any one of the following criteria:

(i) the person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed by the Regulations;

(ii) the person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed by the Regulations;

(iii) the person carries on a business that is a farming business for the purposes of the *Farm Registration and Farm Organizations Funding Act, 1993* and either holds a valid registration number assigned under that Act or has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22(6) of that Act;

(iv) the person's account with the Electricity Vendor relates to

(A) a dwelling;

(B) a property within the meaning of the *Condominium Act, 1998*;

(C) a residential complex within the meaning of subsection 2(1) of the *Residential Tenancies Act, 2006*, without regard to section 5 of that Act; or

(D) a property that includes one of more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*; or

(v) the person satisfies such criteria as may be prescribed by the Regulations; or

(b) such other person as may be prescribed by the Regulations.

Electricity bills for Specified Consumers for the period between May 1, 2018 and April 30, 2019 are to increase by the rate of inflation (or remain unchanged in the event inflation is negative). Permitted increases after April 30, 2019 will be determined by the Ontario government through additional regulations, though the Ontario government has indicated that rate increases will be held to the rate of inflation until 2021.

Under the FHPA, Ontario Power Generation Inc. ("**OPG**") is appointed as "Financial Services Manager" ("**Financial Services Manager**") and given the authority to, among other things, establish, or cause to be established, and manage one or more financing entities (each, a "**Financing Entity**") to incur payment obligations to fund the acquisition of an Investment Interest (such obligations, "**Funding Obligations**"). The Issuer is a Financing Entity under the FHPA and the Notes are Funding Obligations under the FHPA.

[1] The 25% reduction includes an 8% rebate in the provincial portion of the HST previously granted by the Ontario government.

Regulatory Asset

Under the FHPA, each month the IESO determines the shortfall that results from the Fair Adjustment as compared to what the IESO would have been entitled to receive without the Fair Adjustment and records this amount, together with the costs of financing the shortfall, in a variance account. The IESO has the right to recover the balance recorded in the variance account from Specified Consumers (such right, the "**Regulatory Asset**"). The IESO may transfer a specified portion of the Regulatory Asset to a Financing Entity for a cash purchase price equal to the amount recorded in the variance account in respect of such specified portion of the Regulatory Asset. Upon receipt by the IESO of payment by the Financing Entity, the IESO retains no further right, title or interest in the corresponding Investment Interest (as defined below).

Investment Interest

By acquiring an Investment Interest, the Financing Entity is financing a portion of the shortfall that results from the Fair Adjustment and, as an owner of the Investment Interest, will be entitled to recover all its costs of such financing. While a Financing Entity may choose to acquire an Investment Interest from the IESO, it is under no obligation to do so.

If the IESO and a Financing Entity agree to the transfer of a specified portion of the Regulatory Asset from the IESO, such transfer results in the creation of a current and irrevocable property right that is immediately vested in the Financing Entity, free and clear of any adverse claim (such right, an "**Investment Interest**"). The Investment Interest consists of, among other things:

(a) the right and interest to impose, invoice, collect receive and recover the Clean Energy Adjustment from Specified Consumers, including the right to determine the Clean Energy Adjustment in accordance with the FHPA;

(b) the right to receive, collect and recover the Clean Energy Adjustment that is imposed, invoiced and recoverable under the FHPA, including any amounts in respect of the Clean Energy Adjustment that are held by Electricity Vendors or the IESO;

(c) the right to enforce the duties and obligations under the FHPA of each Electricity Vendor to impose, attribute, charge and invoice for the Clean Energy Adjustment;

(d) the right to enforce the duties and obligations under the FHPA of each Electricity Vendor and the IESO to collect, receive and remit amounts received by it in respect of the Clean Energy Adjustment, including all collections and the proceeds of any enforcement action undertaken by any Electricity Vendor to recover payment of the Clean Energy Adjustment;

(e) all rights of any kind related to any of the other property rights or interests that comprise the Investment Interest, including any rights to receive a payment obligation incurred by the IESO as part of the transfer of the Regulatory Asset; and

(f) all revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs (a) to (e), regardless of whether it is invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

Clean Energy Adjustment

The "**Clean Energy Adjustment**" is the amount payable by Specified Consumers to cover the cost of financing the shortfall that results from the Fair Adjustment. The Financial Services Manager will determine the amount of the Clean Energy Adjustment payable by Specified Consumers for each month of a Reference Period. The Clean Energy Adjustment is based on an estimate of the amount payable by a Financing Entity in a Reference Period in respect of the Finance Amount. The "**Finance Amount**" for a Reference Period is an amount determined by the Financial Services Manager as follows:

(a) after eliminating any duplication in the following amounts, calculating the sum of the following amounts:

(i) amounts paid or payable during the Reference Period in respect of the payment by or on behalf of the Issuer or the provision by or on behalf of the Issuer for the payment of all or a portion of the principal amount advanced to the Issuer under a Funding Obligation;

(ii) interest, commitment fees or other similar costs payable by or on behalf of the Issuer in respect of Funding Obligations that are paid or payable during the Reference Period;

(iii) amounts payable by or on behalf of the Issuer to redeem, prepay or repurchase Funding Obligations incurred by or on behalf of the Issuer that are paid or payable during the Reference Period;

(iv) payments required to be made in respect of any derivative agreements during the Reference Period;

(v) amounts deposited, as required under the governing documents of Funding Obligations, into capital accounts or finance reserve accounts during the Reference Period;

(vi) fees, including fees charged by the Financial Services Manager, charges, costs, indemnities, reimbursements and other amounts incurred or committed to by or on behalf of the Issuer as a result of an activity authorized or permitted under the FHPA that are paid or payable during the Reference Period; and

(vii) taxes paid or payable by the Issuer as a result of any activity, undertaking, transaction or event authorized or permitted under the FHPA that are paid or payable during the Reference Period;

(b) after eliminating any duplication in the following amounts, calculating the sum of the following amounts:

(i) amounts withdrawn, as required under the governing documents of Funding Obligations, from capital accounts or finance reserve accounts during the Reference Period;

(ii) amounts received during the Reference Period in respect of funding rebates;

(iii) the aggregate of all amounts received by or on behalf of the Issuer in respect of Funding Obligations during the Reference Period;

(iv) the principal amount of Funding Obligations incurred by the Issuer that are applied to refinance existing Funding Obligation during the Reference Period;

(v) any payments received in connection with a derivative agreement, including ordinary course receipts, payments received on termination and payments received in connection with margining or collateral arrangements, in each case during the Reference Period;

(vi) amounts received by the Issuer as a refund of tax during the Reference Period; and

(c) subtracting the sum calculated under (a) from the sum calculated under (b).

The Financial Services Manager must notify the OEB of the Clean Energy Adjustment for each Reference Period. The OEB must accept this amount and will determine the rates at which Specified Consumers are to be invoiced to recover the Clean Energy Adjustment. The rates are expressed as a $/kWh amount and determined by the OEB by dividing (i) the Clean Energy Adjustment in respect of the relevant period of time provided by the Financial Services Manager by (ii) the forecast electricity consumption provided by the IESO of Specified

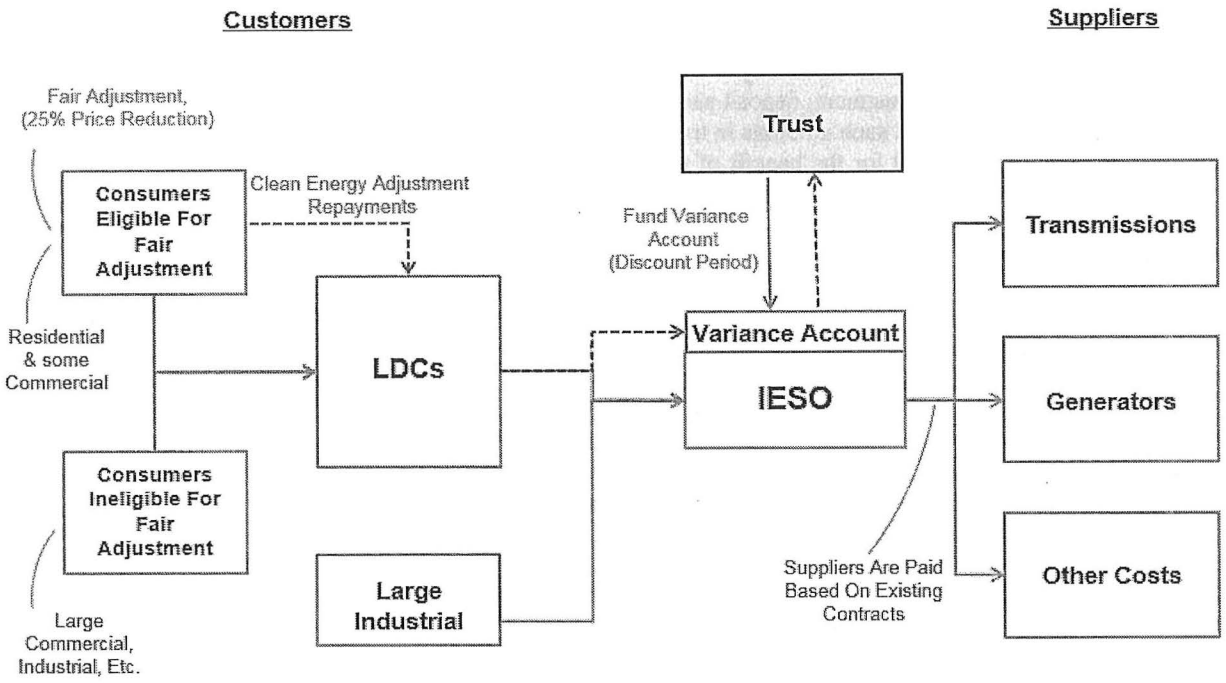
Consumers in respect of the period. Electricity Vendors are required to invoice Specified Consumers for the Clean Energy Adjustment, as determined by applying the rate set by the OEB, which is required to be included as a separate line item on each invoice. Electricity Vendors are required to collect, as agent of the Issuer, amounts in respect of the Clean Energy Adjustment, deposit such amounts into a segregated account established for the purpose of receiving those amounts, hold such amounts in trust for the benefit of the Issuer until deposited with the IESO and remit such amounts to the IESO for the benefit of the Issuer. If an Electricity Vendor does not receive payment in full of an invoice issued to a Specified Consumer, the Electricity Vendor shall allocate the payment received on a *pro rata* basis to the Clean Energy Adjustment and the other amounts payable under the particular invoice. It is a deemed condition of their licenses that Electricity Vendors comply with their obligations under the FHPA.

An amount in respect of the Clean Energy Adjustment shown on an invoice issued to a Specified Consumer is determinative of the amount of the consumer's indebtedness resulting from the Clean Energy Adjustment and is irrevocable upon invoicing and may not be set off or bypassed, except to the extent that the invoice reflects a clerical, typographical or calculation-related error. Commencing May 1, 2021, the Clean Energy Adjustment will be included on invoices sent to Specified Consumers , and collected and remitted to the Issuer to pay amounts owing on the Notes and all other administrative and other financing expenses of the Issuer. From July 1, 2017 until April 31, 2021 (the "**Moratorium Period**"), no Clean Energy Adjustments are permitted to be collected from Specified Consumers. During the Moratorium Period, the sole source of funds for payment on the Notes, and the Issuer's other carrying costs, will be the IESO. See *"—IESO Payment of Carrying Costs"* below. Once it starts being included on such invoices, the Clean Energy Adjustment will be collected until all outstanding Funding Obligations have been repaid in full. Subject to the FHPA, the Clean Energy Adjustment will be collected and remitted to the Issuer to pay the Finance Amount, including the principal and interest on the Notes and all other administrative and other financing expenses of the Issuer.

True-up Amount

The Clean Energy Adjustment also takes into account a true-up comprised of any Finance Amounts not previously recovered through the Clean Energy Adjustment plus other anticipated shortfalls (the "**True-up Amount**"). The True-up Amount accounts for historical and reasonably foreseeable differences between amounts invoiced and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, variations in billings due to variations in electricity consumption and amounts resulting from a default of Specified Consumers, an Electricity Vendor or the IESO, whether in its capacity as and amounts resulting from a default of Specified Consumers, an Electricity Vendor or the IESO, whether in its capacity as an Electricity Vendor or its activities as agent or otherwise under the FHPA an Electricity Vendor or its activities as agent or otherwise under the FHPA. The Regulations obligate the Financial Services Manager to calculate the True-up Amount in respect of each Reference Period so long as all Funding Obligations and other Finance Amounts have not been paid in full. The Financial Services Manager may also at any time during a Reference Period determine an interim True-up Amount if it reasonably forecasts that the collection of the Clean Energy Adjustment will be insufficient to pay the estimated Finance Amount for a Reference Period.

The following diagram illustrates the flow of funds under the Fair Hydro Plan.



Fair Allocation Amount and Financing Plan

The FHPA was enacted to: (i) ensure that Clean Energy Costs and Clean Energy Benefits are fairly allocated among present and future Specified Consumers; (ii) recognize that Clean Energy Benefits have accrued and will accrue over time and will continue to benefit present and future electricity consumers in Ontario; and (iii) align Clean Energy Costs with Clean Energy Benefits, in order to provide fairness for Specified Consumers over time. Under the FHPA, the Minister of Energy calculates a "**Fair Allocation Amount**", which is an amount for every Reference Period that, among other things, allocates the estimated Clean Energy Costs in proportion to the relative attribution of Clean Energy Benefits among Specified Consumers.

OPG, as financial services manager under the FHPA (in such capacity, the "**Financial Services Manager**"), is required to prepare a Financing Plan to evaluate whether and when Funding Obligations should be incurred by the Financing Entity to acquire Investment Interests. The Financial Services Manager is required to prepare the Financing Plan having regard to certain prescribed principles, including that Funding Obligations should be incurred so that the estimated Finance Amount that would become due and payable during a Reference Period will reasonably align with the Fair Allocation Amount determined in respect of such Reference Period. In other words, the Financing Plan should contemplate the issuance of Funding Obligations from time to time, with terms that would result in Clean Energy Adjustments being payable by Specified Consumers that align with the purposes of the FHPA, namely, to ensure that present and future Specified Consumers are bearing their share of the costs of providing Clean Energy Benefits. Notwithstanding the above, the FHPA provides that each Funding Obligation is deemed to be consistent with the Financing Plan and to provide for the reasonable alignment of the estimated Finance Amount with the Fair Allocation Amount.

Currently, the Clean Energy Costs have been determined to exceed the Clean Energy Benefits, with the result that the Fair Allocation Amount is negative. This means that the Minister of Energy has determined that current Specified Consumers have borne more than their fair share of Clean Energy Costs (with the consequent rate reduction for current Specified Consumers). The Fair Allocation Amount is expected to be negative until at least May 2024. Accordingly, any Notes maturing at a time when the Fair Allocation Amount is negative are expected to be refinanced through the issuance of another Series of Notes. If Notes cannot be refinanced on or before maturity, holders of such Notes will have the ability, on a Series by Series basis, to accelerate their Notes resulting in Clean Energy Adjustments that would otherwise be used to pay holders of Subordinated Notes being used to pay holders of accelerated Notes.

[The Financing Plan accommodates the issuance of a variety of corporate debt instruments and borrowings, including term bank debt, revolving bank lines of credit, publicly issued and privately placed debt securities (such as the Notes), commercial paper, medium-term notes, interest rate and currency swaps and other hedging instruments. Based on the Fair Allocation Amounts and subject to the availability of debt financing, it is expected that the Issuer (or other Financing Entities) may incur up to approximately $■ of indebtedness annually over the next ■ years, comprised of approximately $■ of senior debt (including the Notes) and approximately $■ of subordinated debt.] ***[NTD: Consider what we will need to say about the Issuer's plans to raise additional debt, including the use of the short-term warehousing facility. Will investors expect to see a copy of the Fair Allocation Curve?]***

IESO Payment of Carrying Costs

Commencing May 1, 2021, the Clean Energy Adjustment will be included on invoices sent to Specified Consumers, and collected and remitted to the Issuer to pay amounts owing on the Notes and all other administrative and financing expenses of the Issuer. During the Moratorium Period and ending on July 31, 2021, the IESO is required under the Regulations to pay and remit to the Issuer amounts charged to the IESO by the Issuer in respect of its "carrying costs". "Carrying costs" include all funding costs (such as interest on the Notes) and other expenses of the Issuer, other than repayment of principal on any debt obligations of the Issuer (including repayment of principal on the Notes).

Pursuant to the Master Transfer and Servicing Agreement, on or before the fourth business day of each calendar, the Issuer will submit a carrying costs statement to the IESO certifying the amount of carrying costs estimated to be incurred by the Issuer in the following month. On or before the [14th] business day [of each calendar month/following receipt of the Issuer's statement], the IESO is required to deliver the amount specified in the carrying costs statement to the Issuer. See *"The Transferor and Servicer"*. The IESO has a $2 billion unsecured credit facility provided by the Ontario Electricity Financial Corporation, expiring ■, 20■, available for the purposes of paying the Issuer's carrying costs. As security for the performance of its obligations under the Regulations to pay the Issuer's carrying costs, the IESO has granted the Issuer a first-priority security interest in all of its accounts receivable[, which includes the global adjustment charge]. ***[NTD: To be confirmed and subject to finalization of IESO security agreement.]*** As authorized under the Regulations, the IESO has granted security to the Financing Entity for the performance of its obligations to pay these "carrying costs". See *"The Transferor and Servicer"*.

Other Statutory Protections

The FHPA provides certain protection and assurances in respect of the obligations of Specified Consumers to pay amounts in respect of the Clean Energy Adjustment. Generally, no action or omission by the OEB, the Minister of Energy or the government of Ontario, and no regulation under the FHPA, will be effective to reduce, impair, postpone or terminate the obligations of Specified Consumers to pay amounts in respect of Clean Energy Adjustments or to impair or postpone the invoicing, collection or remittance of the Clean Energy Adjustment. If an Electricity Vendor, the IESO or the Financial Services Manager, has failed, or will fail, to comply with the FHPA or the Regulations, the Issuer may apply to an Ontario court to make an order directing such party to comply and requiring compensation to be provided to the Issuer by such non-compliant party. Additional contractual protections are provided in the Change of Law Protection Agreement described below.

CHANGE OF LAW PROTECTION AGREEMENT

[NTD: Subject to finalization of Change of Law Protection Agreement.]

The following brief summary of certain provisions of the Change of Law Protection Agreement does not purport to be comprehensive or definitive. All references in this confidential shelf offering memorandum to the Change of Law Protection Agreement are qualified in their entirety by reference to the Change of Law Protection Agreement for the detailed provisions thereof. ***[NTD: To be confirmed with Province that there will be a carve-out from any confidentiality restrictions for the Indenture Trustee to share a copy of the Change of Law Protection Agreement with any Note purchasers who may ask for a copy.]*** need Province

Pursuant to the Change of Law Protection Agreement in favour of the Issuer and the Indenture Trustee, upon a Protection Event, the Province of Ontario is required to either, at its election: (i) pay the Notes as they

become due and payable, or (ii) assume the Notes as primary obligor. ***[NTD: Drafted to assume we will only ever use this OM for an issuance of Notes that we know will constitute an "Approved Obligation" under the Change of Law Protection Agreement.]*** The occurrence of a Protection Event in and of itself will not result in the acceleration of the Notes. ***[NTD: Consider additional disclosure regarding assumption mechanics and consequences.]***

Each of the following constitutes a "**Protection Event**":

(a) the Ontario legislature repeals, and does not replace on an equivalent basis, or amends the FHPA in whole or in part, as in effect on the date hereof;

(b) the Ontario legislature enacts or amends any other statute;

(c) the Lieutenant Governor in Council repeals, and does not replace on an equivalent basis, the regulations made under or in connection with the FHPA in whole or in part, as in effect on the date hereof;

(d) the Lieutenant Governor in Council, a minister of the Province, an official of the government or board or commission appointed by the Lieutenant Governor in Council makes or amends any regulation; or

(e) there is a change in the organization or structure of the IESO or Ontario's electricity market undertaken at the initiative of the Province or any entity controlled by the Province,

in each case, that materially and adversely affects the ability of the Issuer to receive amounts on its Investment Interests so that it can pay the Notes in accordance with their terms or the Change of Law Protection Agreement or any of the agreements under which the Notes arise, other than if the Indenture Trustee has confirmed in writing that the effect under such agreements is otherwise acceptable, or

(f) a court determines that all or a portion of the FHPA or the Regulations, as in effect on the date hereof, is *ultra vires* or invalid in a way that materially and adversely affects the ability of the Issuer to receive amounts on its Investment Interests so that it can pay Obligations Secured (including the Notes) that has the effect of the Issuer not having sufficient funds to pay Obligations Secured (including the Notes) that have become due and payable.

The Change of Law Protection Agreement will remain in full force and effect for as long as any Notes remain outstanding. The priority of payments made by the Province under the Change of Law Protection Agreement is governed by the Master Trust Indenture. Upon paying the Notes, the Province will have a right of subrogation that includes the entitlement to all rights and interests under and in respect of such Notes, including the security interest in each related Investment Interest and any related property of the Issuer.

THE ISSUER

The Issuer is an unincorporated open-ended unit trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated ■, 2017 (the "**Declaration of Trust**"). Computershare Trust Company of Canada (the "**Issuer Trustee**") is the sole trustee of the Issuer, which is a Financing Entity established to incur Funding Obligations for the purposes of acquiring Investment Interests pursuant to the FHPA. The principal business address and head office of the Issuer is in Ontario, in the care of the Issuer Trustee at the following address: ■.

The following brief summary of certain provisions of the Declaration of Trust does not purport to be comprehensive or definitive. All references in this confidential shelf offering memorandum to the Declaration of Trust are qualified in their entirety by reference to the Declaration of Trust for the detailed provisions thereof.

The Declaration of Trust establishes the Issuer to carry on activities for the benefit of its beneficiary unitholders, ■, a wholly-owned subsidiary of OPG, and BNY Trust Company of Canada, the Indenture Trustee under the Master Trust Indenture (collectively, the "**Unitholders**"). The beneficial interest and rights generally of the Unitholders in the Issuer are limited to the right to participate in distributions when and as declared by the Issuer Trustee and distributions upon the termination of the Issuer. The legal ownership of the trust property and the right to conduct the activities of the Issuer are vested exclusively in the Issuer Trustee and no Unitholder has any right of ownership in any of the trust property. Except in limited circumstances provided in the Declaration of Trust, no Unitholder is entitled to interfere with or give any direction to the Issuer Trustee with respect to the affairs of the Issuer or in connection with the exercise of any powers or authorities conferred upon the Issuer Trustee. The Issuer Trustee will generally have, free from any power or control on the part of the Unitholders, full authority over the trust property and the activities of the Issuer to the same extent as if the Issuer Trustee were the sole and absolute owner thereof. The Unitholders will also not be subject to any liability arising out of the activities of the Issuer.

The permitted activities of the Issuer are limited to:

(a) negotiating, executing and delivering the Program Agreements and performing the obligations of the Issuer under such agreements;

(b) acquiring and holding Investment Interests, along with related assets;

(c) issuing Funding Obligations in one or more series in order to acquire the Investment Interests;

(d) incurring other contractual liabilities to service providers and trade creditors in connection with the permitted activities of the Issuer described here;

(e) pledging its interest in the Investment Interests and related assets to the Indenture Trustee;

(f) making payments on the Funding Obligations and its other contractual liabilities; and

(g) such other activities that are necessary to enable the Issuer to perform the functions of a Financing Entity under the FHPA and its obligations under the Program Agreements.

The Issuer Trustee may amend the Declaration of Trust without the consent of the Unitholders or the Specified Creditors so long as the amendment (i) does not materially adversely affect the interest of any Unitholder, (ii) does not and will not have an Adverse Effect, and (iii) is otherwise consistent and in compliance with the Program Agreements. In addition, in the case of an amendment that does or will have an Adverse Effect, the Issuer Trustee may amend the Declaration of Trust if the holders of not less than a majority of the aggregate outstanding dollar principal amount of the Funding Obligations affected by such amendment consent to such amendment.

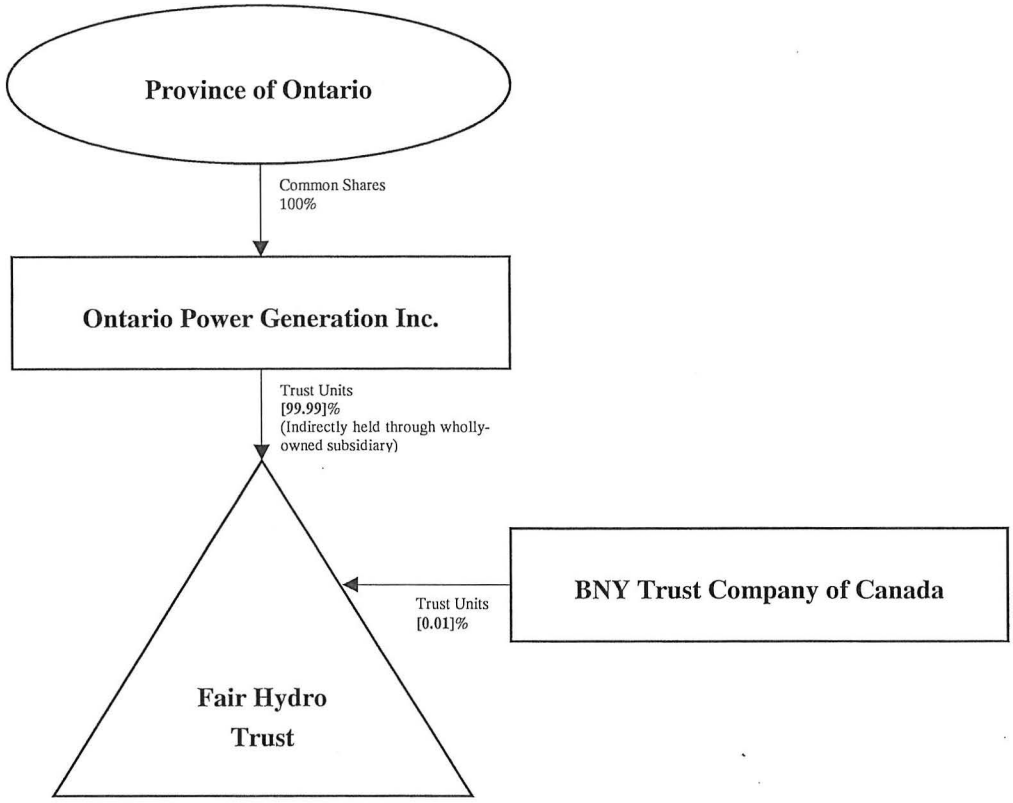
The consent of the Indenture Trustee, in addition to all other Unitholders, will be required to wind up the Issuer or voluntarily institute or consent to insolvency proceedings against the Issuer.

Each of the Issuer Trustee and its related directors, officers, agents, representatives and employees will be indemnified against [all penalties, taxes, claims, actions, investigations, proceedings, costs, expenses or disbursements of any kind] arising out of, among other things, the Declaration of Trust or any other Program Agreement (or the enforcement thereof), the administration of the Issuer's assets or the action or inaction of the Issuer Trustee's agents, except for its own fraud, wilful misconduct, bad faith or negligence.

The Issuer Trustee may be removed by the Unitholders on 90 days' prior written notice. The Issuer Trustee may also be removed as Issuer Trustee with no prior written notice if it becomes insolvent or it is unable to exercise its duties under the Declaration of Trust. The Issuer Trustee may also resign on 120 days' prior written notice to the Unitholders, the Indenture Trustee and the Rating Agencies. In all such circumstances, a successor issuer trustee acceptable to the Unitholders and which satisfies the Rating Agency Condition must be appointed.

The Issuer Trustee, on behalf of the Issuer, has entered into a management agreement with OPG, as manager (the "**Manager**"), whereby all of the powers and duties of managing the Issuer have been delegated to the Manager. See *"The Manager."*

The following diagram illustrates the structure of the Issuer and its affiliates.



THE MANAGER

OPG has entered into a management agreement with the Issuer dated ■, 2017 (the "**Management Agreement**") pursuant to which the Issuer has delegated to OPG, as manager (in such capacity, the "**Manager**"), all of the powers and duties of managing the Issuer. The following brief summary of certain provisions of the Management Agreement does not purport to be comprehensive or definitive. All references in this confidential shelf offering memorandum to the Management Agreement are qualified in their entirety by reference to the Management Agreement for the detailed provisions thereof.

The powers and duties delegated to the Manager under the Management Agreement include, among others:

(a) negotiating and entering into the Program Agreements;

(b) maintaining accounts and banking records;

(c) preparing, in accordance with applicable securities laws, any offering documents to be furnished by the Issuer to prospective purchasers of Funding Obligations, including the Notes;

(d) arranging for compliance by the Issuer with any continuous disclosure obligations;

(e) arranging for the retention of legal counsel, accountants and an auditor for the Issuer;

(f) preparing financial statements and paying taxes on behalf of the Issuer;

(g) enforcing the rights of the Issuer under the Program Agreements and the FHPA; and

(h) determining when to incur Funding Obligations to acquire an Investment Interest or to refinance existing Funding Obligations.

The Manager is obligated to perform its duties diligently and in conformity with the Issuer's obligations under each of the Program Agreements.

In addition to the powers and duties delegated to OPG pursuant to the Management Agreement, OPG has also agreed to comply with its duties under the FHPA in its capacity as Financial Services Manager, including:

(a) preparing the Financing Plan to evaluate whether potential Funding Obligations should be incurred by Financing Entities for the purposes of acquiring Investment Interests;

(b) determining the amounts of the Clean Energy Adjustment, inclusive of any True-up Amount;

(c) notifying the OEB of the Clean Energy Adjustment, inclusive of any True-up Amount;

(d) administering the Investment Interests on behalf of the Financing Entities;

(e) ensuring that Funding Obligations are incurred in a manner that is consistent with the Financing Plan; and

(f) establishing and charging fees for the services provided under the Management Agreement.

[Subject to OEB approval, OPG is entitled to charge the Issuer a fee to earn a return and to recover costs and expenditures incurred by OPG on behalf of the Issuer or in relation to the establishment, management and administration of the Issuer and its Investment Interest (the "**Reimbursable Issuer Expenditures**"). For 2017, OPG expects to receive a flat fee of $3.1 million plus an amount equal to $■, representing the Reimbursable Issuer Expenditures. For 2018 and years thereafter, subject to OEB review, OPG expects to receive a base fee and a variable fee. The base fee proposed by OPG is to be calculated as a percentage of the average monthly Funding Obligations outstanding, having regard to base fees charged by market comparable service providers. For 2018, the proposed base fee is 0.00625% of the average monthly Funding Obligations for each month. The variable fee proposed by OPG is to be based on the difference between forecast interest rates and actual interest rates for Funding Obligations issued every year. The variable component of OPG's proposed fee is capped at $1 million and may result in a payment by, or to, the Issuer. In addition, subject to OEB review, OPG will be entitled to recover any Reimbursable Issuer Expenditures.]

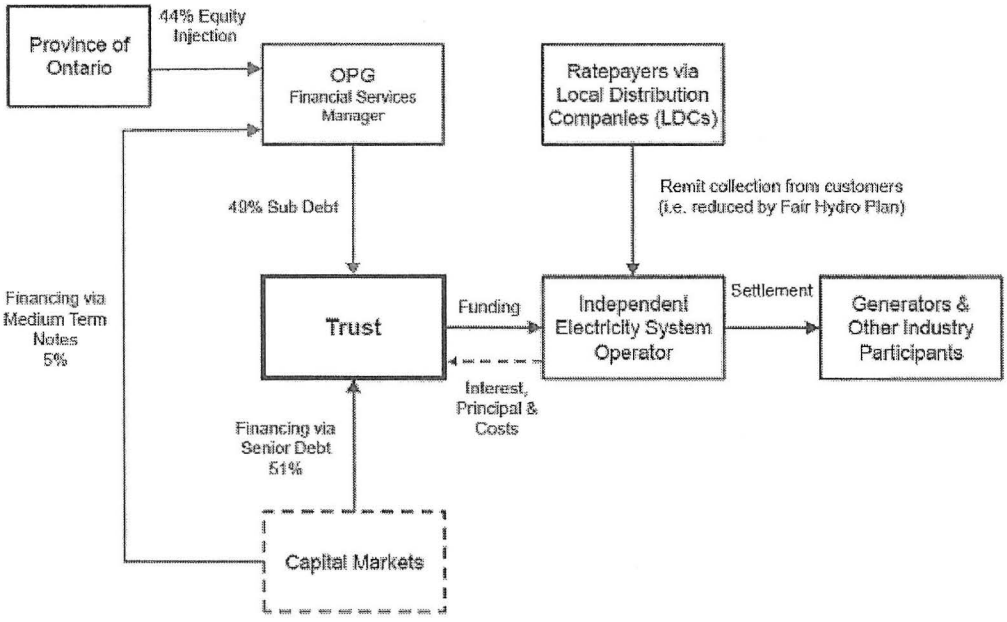
The priority of the Manager's entitlement to fees is subject to the payment priorities set forth in the Master Trust Indenture. The Manager is not entitled to resign from its duties or terminate the Management Agreement as long as Funding Obligations remain outstanding. The Manager may be terminated by the Issuer Trustee, with the consent of the Indenture Trustee, or by the Indenture Trustee in accordance with the Master Trust Indenture.

SUBORDINATED DEBT

Concurrent with every issuance of senior debt by the Issuer, including any Offering of Notes, it is expected that OPG will subscribe for subordinated debt of the Issuer in an amount not to exceed 49% of all outstanding debt of the Issuer at any time. OPG expects to fund a significant portion (approximately 44%) of the subscription price for the Issuer's subordinated debt through equity investments in OPG by the Province of Ontario. The remainder (approximately 5%) will be funded from OPG's available funds, including all or a portion of the proceeds of any offerings of medium term notes pursuant to OPG's short form base shelf prospectus dated September 12, 2017. Under the Master Trust Indenture, the Issuer will be required at all times to ensure that the aggregate outstanding principal amount of all subordinated debt not be less than ■% of the aggregate outstanding principal amount of all of the Issuer's Funding Obligations.

The Issuer is structured to be bankruptcy remote from OPG insofar as none of OPG, its subsidiaries or holders of its indebtedness will have any recourse whatsoever against the Issuer or its assets other than OPG's rights and remedies as a holder of subordinated debt of the Issuer in accordance with the provisions of that indebtedness. [From an accounting perspective, however, the Issuer will be consolidated with OPG.]

The following diagram illustrates the expected structure of OPG's investments in subordinated debt of the Issuer. ***[NTD: Is this chart useful? Consider deleting or collapsing it with the Issuer org chart above.]***



[1] It is expected that OPG will acquire up to 49% of the Issuer's outstanding debt in the form of subordinated debt

THE TRANSFEROR AND SERVICER

The IESO will enter into a master transfer and servicing agreement with the Issuer dated the date of the closing of the first Offering (the "**Master Transfer and Servicing Agreement**") pursuant to which the IESO will periodically transfer specified portions of the Regulatory Asset to the Issuer. Further information about the IESO is available at www.ieso.ca. The following brief summary of certain provisions of the Master Transfer and Servicing Agreement does not purport to be comprehensive or definitive. All references in this confidential shelf offering memorandum to the Master Transfer and Servicing Agreement are qualified in their entirety by reference to the Master Transfer and Servicing Agreement for the detailed provisions thereof.

Under the Master Transfer and Servicing Agreement, the IESO may offer, no more frequently than monthly, to transfer to the Issuer its right, title and interest in, to and under a specified portion of the Regulatory Asset. The Issuer has the right, but not the obligation, to accept the IESO's offer. The IESO is responsible for servicing the Issuer's Investment Interest in accordance with the Regulations and the Master Transfer and Servicing Agreement. Its responsibilities including, among others:

(a) establishing a segregated account to be used for the sole purpose of collecting the Clean Energy Adjustment in respect of the Issuer's Investment Interest and making commercially reasonable efforts to cause Electricity Vendors to do the same;

(b) establishing procedures for the invoicing of amounts by Electricity Vendors in respect of the Clean Energy Adjustment;

(c) responding to inquiries by Electricity Vendors with respect to the Clean Energy Adjustment;

(d) reviewing reports submitted to the IESO by Electricity Vendors regarding the collection of Clean Energy Adjustment amounts for material manifest discrepancies and contacting Electricity Vendors on the occurrence of certain events;

(e) remitting to the Issuer on a monthly basis amounts collected in respect of the Clean Energy Adjustment, subject to daily remittance being required in certain limited circumstances;

(f) providing all information received by Electricity Vendors with respect to Clean Energy Adjustments billed and collected; and

(g) forecasting electricity consumption of Specified Consumers and providing such forecast to the OEB and the Issuer.

Generally, all servicing duties provided by the IESO to the Issuer are provided at no cost to the Issuer. However, the Issuer will reimburse the IESO for its direct costs for the provision of any services to the Issuer that are not required to be performed by the FHPA or the Regulations and that are otherwise not recovered or recoverable by the IESO under the *Electricity Act, 1998*. While the IESO does not guarantee that collections of the Clean Energy Adjustment from Electricity Vendors will equal amounts invoiced, the IESO must follow standards, policies and procedures in performing its servicing duties that are customary for an electricity market operator and administrator that regularly performs settlement services.

- carrying cos funding costs but no repayme of princi

During the Moratorium Period and ending on July 31, 2017, the IESO is required under the Regulations to pay and remit to the Issuer amounts charged to the IESO by the Issuer in respect of its "carrying costs". Carrying costs include all funding costs (such as interest on the Notes) and other expenses of the Issuer, other than repayment of principal on any debt obligations of the Issuer (including repayment of principal on the Notes). Pursuant to the Master Transfer and Servicing Agreement, on or before the fourth business day of each calendar month, the Issuer will submit a carrying costs statement to the IESO certifying the amount of carrying costs estimated to be incurred by the Issuer in the following month. On or before the [14th] business day [of each calendar month/following receipt of the Issuer's statement], the IESO is required to deliver the amount specified to the Issuer in the carrying costs statement. The IESO has a $2 billion unsecured credit facility provided by the Ontario Electricity Financial Corporation, expiring ■, 20■, available for the purposes of paying the Issuer's carrying costs.

As security for the performance of its obligation under the Regulations to pay the Issuer's carrying costs, the IESO has granted the Issuer a first-priority security interest in all of its accounts receivable[, which includes the global adjustment charge.] ***[NTD: Subject to finalization of IESO security agreement.]*** The amounts paid by the IESO to fund these carrying costs will form part of the Regulatory Asset, which will either be transferred to the Issuer in a subsequent period and become part of its Investment Interest [or form part of the Global Adjustment].

As security for the obligations of Electricity Vendors under the FHPA, the IESO will, if requested by the Issuer once the Clean Energy Adjustment is being invoiced to Specified Consumers, provide the Issuer with a letter of credit in an amount equal to $■, representing approximately one month of Clean Energy Adjustment amounts to be collected by all non-investment grade-rated Electricity Vendors. Alternatively, if acceptable to the Issuer, the IESO may provide an equivalent performance guarantee instead of a letter of credit.

The Master Transfer and Servicing Agreement sets out specific servicer defaults. Upon the occurrence of a servicer default, the Issuer will be entitled to appoint a replacement servicer that will perform the IESO's duties as servicer under the Master Transfer and Servicing Agreement.

CREDIT RATINGS

Credit ratings are intended to provide investors with an independent measure of the credit quality of securities. The credit ratings accorded to the Notes are not recommendations to purchase, hold or sell such securities inasmuch as such ratings are not a comment upon the market price of the securities or their suitability for a particular investor. There is no assurance that any rating will remain in effect for any given period of time or that any rating will not be revised or withdrawn entirely by a rating agency in the future if, in its judgment, circumstances so warrant.

The Term Sheet for each Offering will identify the rating of the applicable Notes at the time of such Offering.

RATING AGENCY CONDITION

[NTD: RAC section to be conformed to final definition in MTI.]

The Program Agreements provide that certain actions are subject to the "**Rating Agency Condition**". In each such case, satisfaction of the Rating Agency Condition requires: (a) that the Issuer has delivered written notice of the proposed action to the Rating Agencies at least ten business days prior to the effective date of such action; and (b) that the Rating Agencies shall not have informed the Issuer prior to the effective date of such action that such action will result in the reduction or withdrawal of the rating in effect with respect to the Notes immediately before the taking of such action.

CAPITAL MARKETS PLATFORM

[NTD: Summary prepared based on the August 23 draft of the Master Trust Indenture. To be conformed to final terms of MTI.]

The Financial Services Manager has developed a Financing Plan for the Issuer which encompasses an ongoing program capable of accommodating a variety of corporate debt instruments and borrowings, including term bank debt, revolving bank lines of credit, publicly issued and privately placed debt securities, commercial paper, medium-term notes, interest rate and currency swaps and other hedging instruments.

The Master Trust Indenture establishes common security and a set of common covenants given by the Issuer for the benefit of all of its creditors. Notes are issued under supplemental indentures and in certain cases, terms documents. Borrowings are incurred pursuant to liquidity agreements or loan agreements. Notes and borrowings are Funding Obligations and may include one or more series, classes and tranches. A class designation determines the relative seniority for receipt of cash flows. See *"—Subordination Provisions"*. Tranches of Funding Obligations may differ from each other as to the interest rate, maturity and the timing, sequential order and amount of payments of principal or interest, or both.

The following summary of the principal provisions contained in the Master Trust Indenture is qualified in its entirety by reference to the Master Trust Indenture. This overview summarizes certain provisions of the Indenture and omits descriptions of many provisions which may be considered to be of a customary nature. For full particulars of the obligations of the Issuer and the rights of the holders of Notes under the Master Trust Indenture, potential investors should refer to the Master Trust Indenture.

Conditions Precedent to Incurrence of Obligations Secured

There is no limit on the aggregate amount of indebtedness or other obligations which may be secured under the Master Trust Indenture. However, the Issuer will not be permitted to issue any Funding Obligations or other obligations unless the Issuer meets the following described below under *"—Funding Obligations"* and *"—Other Obligations Secured"*.

Funding Obligations

The Issuer may not issue any series, class or tranche of Funding Obligations unless the conditions described below are met on or prior to the date that the Issuer enters into a definitive agreement in respect of such Funding Obligations:

(a) the Issuer gives the Indenture Trustee and each Rating Agency notice of the new issuance;

(b) the Issuer delivers to the Indenture Trustee and each Rating Agency a certificate to the effect that:

(i) the Issuer reasonably believes that the new issuance will not have an Adverse Effect;

(ii) all instruments furnished to the Indenture Trustee conform to the requirements of the Master Trust Indenture and constitute sufficient authority under the Master Trust Indenture for the Indenture Trustee to (i) in the case of an issuance of Notes only, authenticate and deliver such Notes, and (ii) in the case of all other Funding Obligations, execute and deliver the applicable Funding Obligation Agreement;

(iii) in the case of an issuance of Notes only, the form and terms of the Notes have been established in conformity with the provisions of the Master Trust Indenture;

(iv) the incurrence of such Funding Obligation is consistent in all material respects with the financing plan; see *"Ontario's Fair Hydro Plan — Fair Allocation Amount and Financing Plan"*;

(v) after giving effect to the incurrence of such Funding Obligation, the estimated Finance Amount that would become due and payable during the applicable reference period is reasonably expected to align with the Fair Allocation Amount determined in respect of such reference period; see *"Ontario's Fair Hydro Plan — Fair Allocation Amount and Financing Plan"*; and

(vi) the Issuer shall have satisfied such other matters as the Indenture Trustee may reasonably request;

(c) the representations and warranties of the Issuer in the Master Trust Indenture are true and correct in all material respects;

(d) on or prior to the date that the new issuance is to occur, the Rating Agency Condition is satisfied with respect to such incurrence;

(e) the Issuer delivers to the Indenture Trustee copies of the applicable Funding Obligation Agreement, including in the case of Notes, a supplemental indenture relating to the applicable

series, class or tranche of Notes and, if applicable, a terms document relating to the applicable class or tranche of Notes;

(f) each Debtholder (or an authorized agent on their behalf) shall (i) have acknowledged and agreed in favour of the Indenture Trustee that it is a specified creditor under the Master Trust Indenture and that its entitlements as a specified creditor are subject to the provisions applicable to specified creditors under the Master Trust Indenture; see *"— Payment Priorities"*, *"— Acceleration and Remedies — Rights of Specified Creditors"*, *"— Acceleration and Remedies — Limited Recourse"*, *"— Acceleration and Remedies — Limited Recourse"* and *"— Events of Default — Payment Waterfall Upon Event of Default"*, (ii) irrevocably authorize and direct the Indenture Trustee on its behalf to take such action as may be necessary or appropriate to further assure the priority arrangements provided for in the Master Trust Indenture, (iii) appoint the Indenture Trustee as its agent for any and all such purposes, and (iv) provide the Indenture Trustee with its notice details;

(g) the conditions precedent, if any, specified in the applicable Funding Obligation Agreement are satisfied; and

(h) in the case of an issuance of Notes only:

(i) the Indenture Trustee has received a certificate for the certification and delivery of the Notes and specifying the particulars relating to such Notes;

(ii) in the case of Notes that are "registration required obligations" as described in section 163(f)(2)(A) of the Internal Revenue Code, such Notes shall be issued in registered form for U.S. federal income tax purposes or shall be issued in accordance with section 4701(b)(1)(B) of the Internal Revenue Code; and

(iii) in the case of foreign currency Notes, the Issuer appoints one or more paying agents in the appropriate countries, if requested by the Indenture Trustee.

The Issuer and the Indenture Trustee are not required to provide prior notice to or obtain the consent of any Debtholder or any other specified creditor to issue any series, class or tranche of Funding Obligations.

Other Obligations Secured

The Issuer may incur other obligations so long as the counterparty to any such agreement giving rise to such obligations makes the acknowledgements and agreements referred to in paragraph (f) under *"— Funding Obligations"* above.

Subordination Provisions

Under the Master Trust Indenture, the Issuer can issue the following classes of Funding Obligations: "senior" Funding Obligations, "subordinated" Funding Obligations or "junior subordinated" Funding Obligations. The payment of the subordinated Funding Obligations of any series shall be subordinate and rank junior to the payment of senior Funding Obligations and the payment of the subordinated junior Funding Obligations of any series shall be subordinate and rank junior to the payment of senior Funding Obligations and subordinated Funding Obligations, in each case, to the extent and in the manner set forth in the Master Trust Indenture and described under *"—Payment Priorities"* and *"—Events of Default —Payment Waterfall Upon Event of Default"*.

Security

To secure the payment of all obligations secured, including principal of and interest on the Funding Obligations, the Issuer has granted to the Indenture Trustee a security interest in all of its right, title and interest (whether now owned or hereafter acquired or arising) in and to the following property: (i) the Issuer's Investment Interest; (ii) the collection account, each finance reserve account, each capital reserve account and each

supplemental reserve account; (iii) all eligible investments and all investment property, money and other property held in any of the foregoing accounts; (iv) all rights, benefits and powers of the Issuer under any Program Agreement; (v) all present and future claims, demands, causes of and choses in action in respect of any of the foregoing and all interest, principal, payments and distributions of any nature or type on any of the foregoing; (vi) all accounts, general intangibles, chattel paper, instruments, documents, goods, money, investment property, deposit accounts, letters of credit and letter-of-credit rights consisting of, arising from, or relating to any of the foregoing; (vii) all debts, accounts, claims, monies and choses in action due or to become due with respect to all of the foregoing and also all securities, bills, Notes, evidences of deposits of money, and other documents now held or owned or which may be hereafter taken, held or owned by the Issuer, or anyone on behalf of the Issuer, and all renewals thereof, accretions thereto, substitutions therefor and all interest, income and revenue arising therefrom or by virtue thereof; (viii) all amounts received with respect to all of the foregoing; (ix) all of the property, assets and undertaking now owned or hereafter acquired by the Issuer; and (x) all proceeds of the foregoing (collectively, the "**collateral**").

Issuer Accounts

include CEA

Collection Account

Pursuant to the Master Trust Indenture, the Issuer will establish a segregated trust account in the name of the Indenture Trustee with an eligible institution (the "**collection account**"). The collection account will be under the sole dominion and exclusive control of the Indenture Trustee. The Indenture Trustee will hold the collection account for the benefit of the specified creditors. All available collections received by the Issuer will be credited to the collection account. Available collections includes (i) all amounts received by the Servicer from Electricity Vendors in respect of Clean Energy Adjustments from Specified Consumers (including amounts paid directly to the IESO as an electricity vendor), (ii) Funding Rebates, (iii) all investment earnings allocable to amounts in deposit in any finance reserve account or capital reserve account and (iv) any other amounts to be treated as available collections. See *"Ontario Fair Hydro Plan"* and *"The Transferor and Servicer"*.

Capital Reserve Account

In connection with the creation of a series, class or tranche of Funding Obligations, the Issuer may establish a segregated trust account in the name of the Indenture Trustee with an eligible institution (a "**capital reserve account**"). The capital reserve account will be under the sole dominion and exclusive control of the Indenture Trustee. The Indenture Trustee will hold the capital reserve account for the benefit of the applicable specified creditors. Available collections not required to be paid to specified creditors at such time will be credited to a capital reserve account in accordance with the terms of any applicable Funding Obligation Agreement. The Funding Obligation Agreement for a series, class or tranche of Funding Obligations will specify whether such series, class or tranche has the benefit of a capital reserve account.

Finance Reserve Account

In connection with the creation of a series, class or tranche of Funding Obligations, the Issuer may establish a segregated trust account in the name of the Indenture Trustee with an eligible institution (a "**finance reserve account**"). The finance reserve account will be under the sole dominion and exclusive control of the Indenture Trustee. The Indenture Trustee will hold the finance reserve account for the benefit of the applicable specified creditors. Available collections not required to be paid to specified creditors or a capital reserve account at such time will be credited to a finance reserve account in accordance with the terms of any applicable Funding Obligation Agreement. The Funding Obligation Agreement for a series, class or tranche of Funding Obligations will specify whether such series, class or tranche has the benefit of a finance reserve account.

Supplemental Reserve Account

In connection with the creation of a series, class or tranche of Funding Obligations, the Issuer may establish a segregated trust account in the name of the Indenture Trustee with an eligible institution (a "**supplemental reserve account**"). The supplemental reserve account will be under the sole dominion and exclusive control of the Indenture Trustee. The Indenture Trustee will hold the supplemental reserve account for the benefit of the applicable specified

creditors. Available collections not required to be paid to specified creditors, a capital reserve account or a finance reserve account at such time will be credited to a supplemental reserve account in accordance with the terms of any applicable Funding Obligation Agreement. The Funding Obligation Agreement for a series, class or tranche of Funding Obligations will specify whether such series, class or tranche has the benefit of a supplemental reserve account.

Supplemental Security

Derivative Agreements

A series, class or tranche of Funding Obligations may have the benefit of one or more derivative agreements, which would consist of a currency swap or interest rate swap, a cap (obligating a derivative counterparty to make payments if a reference rate is greater than a specified rate), a floor (obligating a derivative counterparty to make payments if a reference rate is less than a specified rate), or a collar (obligating a derivative counterparty to make payments if a reference rate is greater than a specified rate and entitling the derivative counterparty to receive payments if the same reference rate is less than a lower specified rate), with various counterparties. In general, the Issuer will receive payments from counterparties to the derivative agreements in exchange for the Issuer's payments to them, to the extent required under the derivative agreements. Whether a series, class or tranche of Funding Obligations has the benefit of a derivative agreement, including how any payments made pursuant to such agreement will be applied, will be set out in the applicable Funding Obligation Agreement.

Credit Enhancement Agreements and Liquidity Agreements

A series, class or tranche of Funding Obligations may have the benefit of one or more additional forms of credit enhancement—referred to herein as supplemental credit enhancement agreements—such as a letter of credit, surety bond or loan facility. In addition, a series, class or tranche of Notes may have the benefit of one or more forms of supplemental liquidity agreements—referred to herein as liquidity agreements—such as a liquidity facility. Whether a series, class or tranche of Funding Obligations has the benefit of a credit enhancement agreement or a liquidity agreement, including how any payments made pursuant to such agreement will be applied, will be set out in the applicable Funding Obligation Agreement.

Payment Priorities

On each payment date, a paying agent selected by the Issuer will pay or allocate, at the direction of the Manager, all amounts on deposit in the collection account in the following order of priority (*pro rata* in proportion to the claims represented by each paragraph below except as otherwise noted):

(a) first, to pay (A) the allocated amount of taxes for which a governmental authority is given priority over the specified creditors under the laws of Canada or any province or territory thereof, and then (B) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee up to a maximum aggregate amount of ■%[2] of the outstanding principal amount of all Funding Obligations at such time;

(b) second, to pay (A) interest, fees and other amounts owing in respect of senior Funding Obligations and (B) amounts payable to derivative counterparties other than termination payments;

(c) third, to pay (A) principal owing in respect of senior Funding Obligations to the extent required to satisfy any payment of principal or to accumulate amounts in a capital reserve account pursuant to the applicable Funding Obligation Agreement; and (B) termination payments owing to derivative counterparties where the derivative counterparty is not the defaulting party or the sole affected party;

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[2] To be confirmed.

(d) fourth, to transfer to any Issuer account (other than any Issuer account related solely to subordinated Funding Obligations or subordinated junior Funding Obligations) the amount required pursuant to the applicable Funding Obligation Agreement;

(e) fifth, to pay fees, expenses, reimbursement and indemnity amounts owing to the Manager;

(f) sixth, to pay taxes not previously paid pursuant to paragraph (a);

(g) seventh, to pay (A) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee not previously paid pursuant to paragraph (a), and then (B) fees, expenses and reimbursement amounts owing to other service providers;

(h) eight, to pay interest, fees and other amounts owing in respect of subordinated Funding Obligations;

(i) ninth, to pay principal owing in respect of subordinated Funding Obligations to the extent required to satisfy any payment of principal or to accumulate amounts in a capital reserve account pursuant to the applicable Funding Obligation Agreement;

(j) tenth, to transfer to any Issuer account related solely to subordinated Funding Obligations the amount required pursuant to the applicable Funding Obligation Agreement;

(k) eleventh, to pay interest, fees and other amounts owing in respect of subordinated junior Funding Obligations;

(l) twelfth, to pay principal owing in respect of subordinated junior Funding Obligations to the extent required to satisfy any payment of principal or to accumulate amounts in a capital reserve account pursuant to the applicable Funding Obligation Agreement;

(m) thirteenth, to transfer to any Issuer account related solely to subordinated junior Funding Obligations the amount required pursuant to the applicable Funding Obligation Agreement;

(n) fourteenth, to pay termination payments owing to derivative counterparties where the derivative counterparty is the defaulting party or the sole affected party;

(o) fifteenth, to pay the amount required pursuant to the Declaration of Trust to the Issuer Trustee for the account of the beneficiary, provided that such amount will not be less than $100; and

(p) sixteenth, (i) to be held in the collection account for distribution in the above order of priority on the next payment date; or (ii) after all Funding Obligations have been paid and discharged, and all other amounts have been paid in full, to pay to the Issuer.

If the amounts in the collection account are not sufficient to make all required payments and applications as described above: (i) amounts on deposit in any other Issuer account (other than Issuer accounts related solely to subordinated Funding Obligations or subordinated junior Funding Obligations) may be withdrawn from such Issuer account and allocated to those specified creditors required to be paid pursuant to paragraph (a) through (c) above; (ii) amounts on deposit in any Issuer account related solely to subordinated Funding Obligations may be withdrawn from such Issuer account and allocated to those specified creditors required to be paid pursuant to paragraph (a) through (i) above; and (iii) amounts on deposit in any Issuer account related solely to subordinated junior Funding Obligations may be withdrawn from such Issuer account and allocated to those specified creditors required to be paid pursuant to paragraph (a) through (l) above. Notwithstanding the foregoing, amounts on deposit in an Issuer account established solely for the benefit of one or more series, class or tranche of Funding Obligations may only be withdrawn from such Issuer account for the purpose for which such Issuer account was established and allocated only to those specified creditors for whom such Issuer account was established.

Covenants of the Issuer

Positive Covenants

Incurrence of Funding Obligations

The Issuer will ensure that all indebtedness is incurred pursuant to and in accordance with the provisions of the Master Trust Indenture, as described under "*Conditions Precedent to Incurrence of Funding Obligations*". The Issuer will use the proceeds of such indebtedness solely for: (i) the acquisition by the Issuer of an Investment Interest; (ii) the refinancing of any existing Funding Obligations; and (iii) the payment of transaction fees and expenses in connection with the incurrence of Funding Obligations.

Payment of Principal and Interest

The Issuer will duly and punctually pay the principal of and interest due on the Funding Obligations in the manner specified in the Master Trust Indenture and any related Funding Obligation Agreement.

Other Covenants

In addition to the covenants contained in any supplemental indenture to the Master Trust Indenture (a "**Supplemental Indenture**") and the other covenants described in this section, the Issuer agrees that it will:

- do or cause to be done all things necessary to preserve its existence and maintain its status as a Financing Entity;
- take all reasonable steps to maintain its identity as a distinct entity with assets and liabilities distinct from those of the Manager and any of their respective affiliates;
- perform and observe all of its obligations and agreements contained in the Master Trust Indenture, the Declaration of Trust, the Master Sale and Servicing Agreement and in the other instruments and agreements relating to the collateral;
- give the Indenture Trustee and each Rating Agency prompt written notice of each event of default under the Master Trust Indenture and each breach on the part of the Issuer or the Servicer of its respective obligations under the Master Transfer and Servicing Agreement; and
- use reasonable commercial efforts, upon the written request of the Indenture Trustee, following any (i) termination or resignation of the Servicer, the Manager or the Paying Agent, or (ii) termination, non-renewal or expiry of a liquidity agreement or a credit enhancement agreement, to appoint and enter into an agreement with a successor to such Servicer, Manager or Paying Agent, or replace or renew such liquidity agreement or credit enhancement agreement, in form and substance the same as the previously existing Program Agreement.

Negative Covenants

Consolidation; Sale of Assets

The Issuer may not consolidate with or merge into any other person, or sell, convey, exchange, transfer or otherwise dispose of any of its properties or assets included in the collateral to any person (each, a "**transaction**"), unless:

(a) the entity formed by or surviving the consolidation or merger (if other than the Issuer) or the entity that acquires by conveyance or transfer formed by or surviving the consolidation or merger, by conveyance or transfer, as applicable: (i) is a financing entity; (ii) is organized under the laws of Canada or any province or territory thereof; (iii) is not a non-resident for purposes of the *Income*

Tax Act (Canada); (iv) is not subject to regulation as an "investment company" under the Investment Company Act, (v) expressly assumes, pursuant to an assignment and assumption agreement or supplement, the performance or observance of all of the Issuer's agreements and covenants under each of the Program Agreements to which the Issuer is a party; and (vi) in the case of a conveyance or transfer only, such person expressly agrees, pursuant to such assignment and assumption agreement or supplement, (A) that all right, title and interest conveyed or transferred is subject and subordinate to the security interest of the Indenture Trustee and (B) that it will make all filings with the Securities and Exchange Commission as required by the Securities Exchange Act of 1934 in connection with any Notes;

(b) no event of default or early amortization event under the Master Trust Indenture has occurred and is continuing immediately after the transaction;

(c) the Issuer has delivered to the Indenture Trustee an officer's certificate and an opinion of counsel of external counsel, each stating that (i) the transaction and the agreements delivered in connection with such transaction comply with the terms and conditions in the Master Trust Indenture, (ii) all conditions precedent in the Master Trust Indenture relating to the transaction have been complied with, and (iii) in the case the agreements delivered in connection with the transaction have been duly authorized, executed and delivered, and are valid, binding and enforceable against the surviving entity or transferee, as applicable;

(d) the Rating Agency Condition has been satisfied with respect to the transaction; and

(e) any action as is necessary to maintain the first priority perfected security interest in the collateral has been taken.

Borrowings, Guarantees, etc.

The Issuer will not issue, incur, assume, guarantee or otherwise become liable for any indebtedness except for the Funding Obligations. Additionally, the Issuer will not, except as contemplated by the Program Agreements, make any loan or advance or credit to, or guarantee, endorse or otherwise become contingently liable in connection with the obligations of, or own, purchase or acquire any stock, obligations, assets or securities of, or any other interest in, or make any capital contribution to, any other person.

Amendments to Program Agreements

The Issuer will not:

(a) amend, supplement, modify, restate or replace, or waive or consent to a postponement of compliance with the terms and conditions on the part of the other party to any of the Program Agreements (other than the Master Trust Indenture and the Declaration of Trust) if any such amendment, supplement, modification, restatement or replacement, or waiver or consent could reasonably be considered to be materially prejudicial to the rights or interests of any specified creditor, except as expressly permitted by such specified creditor, and unless the Rating Agency Condition is satisfied;

(b) consent, if consent is required, to the resignation of the Manager under the Management Agreement unless the Rating Agency Condition is satisfied; and

(c) amend the Declaration of Trust for the purpose of adding, changing or eliminating any provisions of the Declaration of Trust or modifying the rights of Debtholders unless the Debtholders affected by such amendment consent to the same.

Security Matters

The Issuer will not (i) permit any lien, charge, excise, claim, security interest, mortgage or other encumbrance (other than the lien in favor of the Indenture Trustee created by the Master Trust Indenture) to be created on or extend to the collateral, (ii) release any security or guarantee in respect of the collateral, or (iii) change its name, jurisdiction of formation or type of organization, unless it makes all filings and takes all actions necessary to continue and maintain the Indenture Trustee's first priority security interest in the collateral.

Other Covenants

In addition to the covenants contained in any Supplemental Indenture and the other covenants described in this section, the Issuer agrees that it will not:

- engage in any activity other than the activities set forth in the Declaration of Trust or the other Program Agreements, the material provisions of which are described in this offering memorandum under "The Issuer".
- claim any credit on or make any deduction from the principal and interest payable on the Funding Obligations, other than amounts withheld in good faith from such payments under the Income Tax Act or other applicable tax law (including foreign withholding),
- voluntarily dissolve or liquidate;
- make any payments, distributions, dividends or redemptions to any holder of its equity interests in respect of that interest except in accordance with the Master Trust Indenture;
- sell, transfer, exchange or otherwise dispose of any of the collateral; or
- take any action that would cause it to be treated as engaged in a "trade or business within the United States" for U.S. federal income tax purposes.

Reporting Requirements

The Issuer will deliver, or cause to be delivered:

(a) to the Indenture Trustee and the Paying Agent on a monthly basis, a report with respect to the payments to be made on the following Payment Date and setting forth [(i) the amount of the payment to Noteholders (including a breakdown of principal and interest), (ii) the aggregate outstanding principal of the Notes before and after giving effect to the payments in (i) above, (iii) any other transfers and payments to be made on such payment date, including amounts paid to the Indenture Trustee, the Issuer Trustee and the Manager, and (iv) the amounts on deposit in the Issuer Accounts after giving effect to the foregoing payments.][3]

(b) to the Indenture Trustee within 90 days after the end of each fiscal quarter (other than the last fiscal quarter of each fiscal year), unaudited financial statements of the Issuer;

(c) to the Indenture Trustee within 140 days after the end of each fiscal year, audited financial statements of the Issuer;

(d) to the Indenture Trustee and the Rating Agencies on an annual basis, a written statement concerning compliance with the covenants, agreements or conditions contained in the Trust Indenture as well as the presence or absence of material defaults thereunder; and

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[3] **Note to draft:** To be included in next turn of Master Trust Indenture.

(e) to the Rating Agencies, a copy of any amendment to the Master Trust Indenture or a Supplemental Indenture.

Amendments to Master Trust Indenture

Amendments not Requiring Consent of specified creditors

The Issuer and the Indenture Trustee may amend, supplement or otherwise modify the Master Trust Indenture or any Supplemental Indenture without the consent of any specified creditor upon prior notice to each Rating Agency and delivery by the Issuer to the Indenture Trustee of an officer's certificate to the effect that the Issuer reasonably believes that such amendment will not and is not reasonably expected to have an Adverse Effect. Such amendments to the Master Trust Indenture or any Supplemental Indenture may:

- evidence the succession or successive successions of another Financing Entity to the Issuer, and the assumption by such successor of the covenants of the Issuer in the Master Trust Indenture and the Notes;
- add to the covenants of the Issuer, or have the Issuer surrender any of its rights or powers under the Master Trust Indenture (or any Supplemental Indenture), for the benefit of the Debtholders of any or all series, classes or tranches;
- cure any ambiguity, correct or supplement any provision in the Master Trust Indenture which may be inconsistent with any other provision in the Master Trust Indenture (or any Supplemental Indenture), or make any other provisions for matters or questions arising under the Master Trust Indenture;
- establish any form of Note, or to add to the rights of the Noteholders of any series, class or tranche;
- provide for the acceptance of a successor indenture trustee under the Master Trust Indenture;
- add any additional early amortization events or events of default relating to any or all series, classes or tranches of Funding Obligations;
- provide for the consolidation of any financing entity and the Issuer into a single entity or the transfer of assets in any financing entity to the Issuer;
- if the IESO is replaced under the Master Transfer and Servicing Agreement, make any necessary changes to the Master Trust Indenture;
- add assets to the Issuer;
- provide for additional or alternative forms of credit enhancement for any series, class or tranche of Funding Obligations;
- comply with any regulatory, accounting or tax laws, or changes to any ratings criteria;
- enable the Issuer to file a registration statement for the offering of securities registered under the Securities Act and to comply with Regulation AB thereunder; or
- qualify for sale treatment under generally accepted accounting principles.

The Master Trust Indenture or any Supplemental Indenture may also be amended by the Issuer and the Indenture Trustee without the consent of any specified creditor in the following circumstances, provided that the Issuer delivers to the Indenture Trustee an officer's certificate to the effect that: (i) the Issuer reasonably believes that such amendment will not have an Adverse Effect and (ii) such amendment is required to comply with law, or to conform or be consistent with the statements contained in this offering memorandum:

- to facilitate compliance with changes in laws or regulations applicable to the Issuer or the transactions governed by the Program Agreements; or

- to cause the provisions of the Master Trust Indenture to conform to or be consistent with or in furtherance of the statements made in this offering memorandum with respect to the Master Trust Indenture or any Supplemental Indenture

Additionally, the Master Trust Indenture or any Supplemental Indenture may also be amended by the Issuer and the Indenture Trustee without the consent of any specified creditor in the following circumstances, provided that (i) the Issuer delivers to the Indenture Trustee an officer's certificate to the effect that the Issuer reasonably believes that such amendment will not and is not reasonably expected to have an Adverse Effect and (ii) the Rating Agency Condition is satisfied with respect to such amendment:

- to add provisions to, or change in any manner or eliminate any of the provisions of, the Master Trust Indenture or any Supplemental Indenture;

- to modify in any manner the rights of the specified creditors under the Master Trust Indenture or any Supplemental Indenture; or

- to provide for those changes necessary for compliance with securities law requirements or banking laws or regulations.

The Indenture Trustee may, but is not obligated to, enter into any amendment which adversely affects its rights, duties, benefits, protections, privileges or immunities under the Master Trust Indenture (or any Supplemental Indenture).

Amendments Requiring Consent of Debtholders

The Issuer and the Indenture Trustee may amend, supplement or otherwise modify and amend the Master Trust Indenture or any Supplemental Indenture for reasons other than those stated in the prior section ("*— Amendments Not Requiring Consent of Specified Creditors*"), with prior notice to each Rating Agency and the consent of holders of not less than 50% of the outstanding principal amount of each series, class or tranche of Funding Obligations affected by that amendment, supplement or other modification. However, if the amendment, supplement or other modification would result in any of the following events occurring, it may be made only with the consent of the holders of 100% of each outstanding series, class or tranche of Funding Obligations affected thereby:

- a change in any date scheduled for the payment of interest on any Funding Obligation or the scheduled final payment date or legal maturity date of any Funding Obligation;

- a reduction in the principal amount of, or interest rate on, any Note, or a change in the method of computing the outstanding dollar principal amount, the outstanding currency specific dollar principal amount or the adjusted outstanding dollar principal amount in a manner that is adverse to any Debtholder;

- a reduction in the amount of a discount note payable upon the occurrence of an early amortization event or other optional or mandatory redemption or upon the acceleration of its legal maturity date;

- an impairment of the right to institute suit for the enforcement of any payment on any Funding Obligation;

- a reduction in the percentage in outstanding principal amount of Funding Obligations of any series, the consent of whose holders is required for modification or amendment of the Master Trust Indenture, any Supplemental Indenture or any related agreement or for waiver of compliance with provisions of the

Master Trust Indenture or for waiver of defaults and their consequences provided for in the Master Trust Indenture;

- a modification of any of the provisions governing the amendment of the Master Trust Indenture or any Supplemental Indenture, or waivers of past defaults, except to increase any percentage of Debtholders required to consent to any such amendment or waiver, or to provide that certain other provisions of the Master Trust Indenture cannot be modified or waived without the consent of each Debtholder affected by such modification;

- permission being given to create any lien or other encumbrance on the collateral ranking senior to the lien of the Master Trust Indenture;

- a change in the city or political subdivision so designated with respect to any series, class or tranche of Notes where any principal of, or interest on, any Note is payable;

- a change in the method of computing the amount of principal of, or interest on, any Note on any date.

Debtholder Approvals and Meetings

Access to Debtholder Lists

The Indenture Trustee will preserve the names and addresses of all specified creditors. Three or more Debtholders, each of whom has owned a Funding Obligation for at least six months, may, upon written request to the Indenture Trustee, obtain access to the current list of Debtholders for purposes of communicating with other Debtholders concerning their rights under the Master Trust Indenture (or any Supplemental Indenture) or the Funding Obligations.

Debtholder Meetings

The Master Trust Indenture sets out the mechanics for meetings of Debtholders. The Indenture Trustee will call a meeting upon request of the Issuer or the holders of at least **[25%]**[4] in aggregate outstanding principal amount of Funding Obligations of the applicable series, class or tranche of Funding Obligations, or of all Funding Obligations. If the Indenture Trustee fails to convene such a meeting after 30 days, the Issuer or those Debtholders may convene the meeting. The Indenture Trustee may call a meeting of holders of a series, class or tranche of Funding Obligations, or of all Funding Obligations, at any time for any purpose. The quorum for any meeting is two or more persons holding (personally or as proxies) not less than **[25%]**[5] of the outstanding principal amount of the series, class or tranche of Funding Obligations, or of all Funding Obligations, as the case may be, entitled to vote at such meeting. Each Debtholder who is present, whether in person or by proxy, will have one vote for every $1,000 of outstanding principal amount of Funding Obligations of which he or she shall be the holder.

Every question submitted to a meeting, except those requiring an Extraordinary Resolution, shall be decided by a majority of the votes. Any matter requiring an Extraordinary Resolution shall be decided by the affirmative vote of the holders of not less than 66⅔% of the aggregate outstanding principal amount of all Funding Obligations. Such matters include:

- authorizing the Indenture Trustee to accept, in satisfaction or partial satisfaction, all or any part of the collateral;

- sanctioning the selling of the collateral or any part thereof or interest therein;

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4 To be confirmed.

5 To be confirmed.

- authorizing the Indenture Trustee or any other Person to bid or tender at any sale of the collateral or any part thereof and take such actions in connection with such sale as it determines to be in the best interests of all Debtholders;

- consenting to any compromise or arrangement by the Issuer with any creditor, creditors or class or classes of creditors or with the holders of any securities of the Issuer whose claims are payable from the collateral;

- restraining any Debtholder from taking or instituting any suit, action or proceeding for the purpose of realizing on the collateral or for the execution of any trust or power hereunder or for the appointment of a liquidator, receiver or trustee in bankruptcy or to have the Issuer liquidated or for any other remedy hereunder and to direct such Debtholder to waive any Event of Default on which any suit or proceeding is founded;

- requiring the Indenture Trustee (subject to receipt by the Indenture Trustee of reasonable funding and indemnity) to exercise or refrain from exercising any other powers conferred upon it by the Master Trust Indenture of general application to all series of Funding Obligations, including the exercise of any rights of the Issuer under any of the Program Agreements upon the occurrence and during the continuance of an event of default, or to waive any event of default and/or cancel any declaration made pursuant to the Master Trust Indenture upon such terms and/or conditions as may be decided; and

- authorizing the Indenture Trustee, for and on behalf of all specified creditors, to file and prove a claim or debt against the Issuer or its property for an amount equivalent to the aggregate amount which may be payable in respect of all Funding Obligations, to value the collateral, and to vote such claim or debt at meetings of creditors and generally act for and on behalf of all Debtholders in such proceedings as such Extraordinary Resolution may provide.

Any resolution or instrument signed by the requisite number of Debtholders shall have the same force and effect as a resolution duly passed at a meeting of such Debtholders.

Any action or vote taken at any meeting (including by way of written instrument) of Debtholders duly held in accordance with the Master Trust Indenture will be binding on all holders of the applicable series, class or tranche of Funding Obligations or of all Funding Obligations, as the case may be.

In determining whether of Debtholders of the requisite principal amount have taken any action under the Master Trust Indenture, Funding Obligations owned by the Issuer, OPG or any affiliate of either of them will be disregarded and deemed not to be outstanding. In determining whether the Indenture Trustee will be protected in relying upon any such action, only Funding Obligations which a responsible officer of the Indenture Trustee knows to be owned by the Issuer, OPG or any affiliate of either of them will be so disregarded.

Early Amortization

Upon the occurrence of an early amortization event with respect to a series, class or tranche of Funding Obligations (to the extent that funds are available for such purpose pursuant to the payment priorities set out in the Master Trust Indenture), the Issuer will be required to repay the outstanding principal amount of such affected Funding Obligations, together with any accrued, past due or additional interest.

Early amortization events include:

(a) for any series, class or tranche of Funding Obligations, the occurrence of the scheduled final payment date of such series, class or tranche of Funding Obligations;

(b) the Issuer becoming an "investment company" within the meaning of the Investment Company Act of 1940, as amended; and

(f) the Issuer's default in the performance, or breach, of any covenant or agreement contained in any Funding Obligation Agreement which causes or entitles and the holders of such Funding Obligations to cause acceleration of the maturity thereof;

(g) the Change of Law Assumption Agreement ceases to be in full force and effect against the Province and the Province does not, within **[90]**[9] days after the Indenture Trustee has provided written notice to the Province of such unenforceability, cause such agreement to be in full force and effect or replace such agreement with a new agreement that is in form and substance satisfactory to the Debtholders, acting reasonably; or

(h) the Change of Law Assumption Agreement or the applicability thereof to the Province or the Funding Obligations is disaffirmed by the Province.

Additional events of default in respect of any series, class or tranche of Funding Obligations may be set forth in the related Funding Obligation Agreement.

Payment Waterfall Upon Event of Default

Upon the occurrence and during the continuance of an event of default, any money or other property standing to the credit of an Issuer Account (except as set out below) or otherwise collected by the Indenture Trustee will be applied in the following priority:

(a) first, to pay (A) the allocated amount of taxes for which a governmental authority is given prior over the specified creditors under the laws of Canada or any province or territory thereof, and then (B) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee up to a maximum aggregate amount of ■%[10] of the outstanding dollar principal amount of all Funding Obligations at such time;

(b) second, to pay (A) interest, fees and other amounts owing in respect of Senior Funding Obligations and (B) amounts payable to derivative counterparties other than termination payments;

(c) third, to pay (A) principal owing in respect of Senior Funding Obligations and (B) termination payments owing to derivative counterparties where the derivative counterparty is not the defaulting party or the sole affected party;

(d) fourth, to pay fees, expenses, reimbursement and indemnity amounts owing to the Manager;

(e) fifth, to pay taxes not previously paid pursuant to the first bullet;

(f) sixth, to pay (A) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee not previously paid pursuant to the first bullet, and then (B) fees, expenses and reimbursement amounts owing to other service providers;

(g) seventh, to pay interest, fees and other amounts owing in respect of subordinated Funding Obligations;

(h) eight, to pay principal owing in respect of subordinated Funding Obligations;

(i) ninth, to pay interest, fees and other amounts owing in respect of subordinated junior Funding Obligations;

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9 To be confirmed.

10 To be confirmed.

(a) the Issuer or a Debtholder has previously given to the Indenture Trustee written notice of a continuing event of default;

(b) Debtholders, by Extraordinary Resolution, have made written request of the Indenture Trustee to institute the proceeding in its own name as Indenture Trustee;

(c) Debtholders have offered the Indenture Trustee a satisfactory indemnity; and

(d) the Indenture Trustee has, for 60 days, failed to institute the proceeding.

Subject to certain powers which may only be exercised by Extraordinary Resolution, Debtholders of not less than 50% of the outstanding principal amount of any accelerated series, class or tranche of Funding Obligations have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or exercising any trust or power conferred on the Indenture Trustee with respect to such series, class or tranche. However, the Indenture Trustee may decline to follow such direction if it determines (based on advice from counsel) that such direction (i) conflicts with applicable law or the Master Trust Indenture, (ii) has a substantial likelihood of involving the Indenture Trustee in personal liability or (iii) is unjustly prejudicial to Debtholders not taking part such direction. See *"Debtholder Approvals and Meetings—Debtholder Meetings"* for a description of certain powers which may only be exercised by Extraordinary Resolution.

Limited Recourse

The obligation of the Issuer to pay principal of and interest on the Funding Obligations or any other amount payable to any Debtholder is subject to the allocation and payment provisions in the Master Trust Indenture and the applicable Funding Obligation Agreement and limited to amounts available from the collateral. Neither the Indenture Trustee, the Manager nor the Issuer Trustee in its individual capacity, nor any holder of any ownership interest in the Issuer, nor any of their respective owners, beneficiaries, agents, officers, directors, employees, successors or assigns will, in the absence of an express agreement to the contrary, be personally liable for the payment of the principal of or interest on the Notes or any other Funding Obligation, or for the Issuer's covenants and agreements contained in the Master Trust Indenture.

Satisfaction and Discharge of Indenture

The Master Trust Indenture will cease to be of further effect with respect to any series, class or tranche of Notes and the Indenture Trustee, on the written demand and at the expense of the Issuer, will execute instruments acknowledging such satisfaction and discharge with respect to that series, class or tranche of Notes, when:

(a) all Notes of that series, class or tranche which have already been authenticated or delivered, with certain exceptions set forth in the Master Trust Indenture, have been delivered to the Indenture Trustee for cancellation,

(b) the Issuer has paid all other sums payable by it under the Master Trust Indenture with respect to that series, class or tranche of Notes, and

(c) the Issuer has delivered to the Indenture Trustee an officer's certificate and an opinion of external counsel each stating that the conditions precedent in the Master Trust Indenture relating to the satisfaction and discharge have been complied with.

DESCRIPTION OF NOTES

The following description of the Notes is a summary of certain of their material attributes and characteristics, and does not purport to be complete. The terms and conditions set forth in this "Description of the Notes" section will apply to each Note unless otherwise specified in the applicable Term Sheet. For further particulars, reference should be made to the Master Trust Indenture and the Supplemental Indenture and Terms Document, if any, relating to the particular series, class or tranche of Notes.

(c) the occurrence of certain events of bankruptcy or insolvency in relation to the Servicer or the Manager.

Additional early amortization events in respect of any series, class or tranche of Funding Obligations may be set forth in the related Funding Obligation Agreement.

In the case of any event described in (b) or (c) above, an early amortization event will occur with respect to all outstanding series, class or tranche of Funding Obligations without any notice or other action on the part of the Indenture Trustee or any Debtholders immediately upon the occurrence of such event.

If the amount of Available Collections, together with funds on deposit in the applicable Issuer Accounts and any amounts payable to the Issuer under any applicable derivative agreement, credit enhancement agreement or liquidity agreement are insufficient to repay such amount in full on the next Payment Date after giving effect to the payment priorities set out in the Master Trust Indenture, monthly payments on those Funding Obligations will continue to be made on each Payment Date until the principal amount of those Funding Obligations, plus any accrued, past due and additional interest, is paid in full, or the legal maturity date of those Funding Obligations occurs, whichever is earlier. See *"— Payment Priorities" and "— Events of Default — Payment Waterfall Upon Event of Default"* for a description of the payment priorities applicable to such payments.

Events of Default

General

Each of the following events is an event of default for any affected series, class or tranche of Funding Obligations:

(a) the Issuer's failure, for a period of **[65]**[6] days, to pay interest on such series, class or tranche of Funding Obligations when such interest becomes due and payable;

(b) the Issuer's failure to pay the principal amount of such series, class or tranche of Funding Obligations on the applicable legal maturity date;

(c) any representation or warranty in the Master Trust Indenture proves to be incorrect in any material respect when made and if capable of remedy, such incorrect representation or warranty is not remedied for a period of 90 days after the Indenture Trustee or the holders of at least **[25%]**[7] of the aggregate outstanding dollar principal amount of the outstanding Funding Obligations of any affected series, class or tranche has provided written notice requesting remedy of that default and stating that as a result of such default, the interests of the related Debtholders are materially and adversely affected and continue to be materially and adversely affected during the 90-day period;

(d) the Issuer's default in the performance, or breach, of any other of its covenants or warranties in the Master Trust Indenture, for a period of 90 days after the Indenture Trustee or the holders of at least **[25%]**[8] of the aggregate outstanding dollar principal amount of the outstanding Funding Obligations of any affected series, class or tranche has provided written notice requesting remedy of that default and stating that as a result of such default, the interests of the related Debtholders are materially and adversely affected and continue to be materially and adversely affected during the 90-day period;

(e) certain events of bankruptcy or insolvency of the Issuer;

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6 To be confirmed.

7 To be confirmed.

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(f) the Issuer's default in the performance, or breach, of any covenant or agreement contained in any Funding Obligation Agreement which causes or entitles and the holders of such Funding Obligations to cause acceleration of the maturity thereof;



(g) the Change of Law Assumption Agreement ceases to be in full force and effect against the Province and the Province does not, within **[90]**[9] days after the Indenture Trustee has provided written notice to the Province of such unenforceability, cause such agreement to be in full force and effect or replace such agreement with a new agreement that is in form and substance satisfactory to the Debtholders, acting reasonably; or

(h) the Change of Law Assumption Agreement or the applicability thereof to the Province or the Funding Obligations is disaffirmed by the Province.

Additional events of default in respect of any series, class or tranche of Funding Obligations may be set forth in the related Funding Obligation Agreement.

Payment Waterfall Upon Event of Default

Upon the occurrence and during the continuance of an event of default, any money or other property standing to the credit of an Issuer Account (except as set out below) or otherwise collected by the Indenture Trustee will be applied in the following priority:

(a) first, to pay (A) the allocated amount of taxes for which a governmental authority is given prior over the specified creditors under the laws of Canada or any province or territory thereof, and then (B) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee up to a maximum aggregate amount of ■%[10] of the outstanding dollar principal amount of all Funding Obligations at such time;

(b) second, to pay (A) interest, fees and other amounts owing in respect of Senior Funding Obligations and (B) amounts payable to derivative counterparties other than termination payments;

(c) third, to pay (A) principal owing in respect of Senior Funding Obligations and (B) termination payments owing to derivative counterparties where the derivative counterparty is not the defaulting party or the sole affected party;

(d) fourth, to pay fees, expenses, reimbursement and indemnity amounts owing to the Manager;

(e) fifth, to pay taxes not previously paid pursuant to the first bullet;

(f) sixth, to pay (A) fees, expenses and reimbursement amounts owing to the Issuer Trustee and the Indenture Trustee not previously paid pursuant to the first bullet, and then (B) fees, expenses and reimbursement amounts owing to other service providers;

(g) seventh, to pay interest, fees and other amounts owing in respect of subordinated Funding Obligations;

(h) eight, to pay principal owing in respect of subordinated Funding Obligations;

(i) ninth, to pay interest, fees and other amounts owing in respect of subordinated junior Funding Obligations;

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9 To be confirmed.

10 To be confirmed.

(j) tenth, to pay principal owing in respect of subordinated junior Funding Obligations;

(k) eleventh, to pay termination payments owing to derivative counterparties where the derivative counterparty is the defaulting party or the sole affected party; and

(l) twelfth, to pay any remaining amounts to the Issuer.

However, amounts on deposit in an Issuer Account established solely for the benefit of one series, class or tranche of Funding Obligations will first be used to satisfy all obligations owing to the Debtholders for whom such Issuer Account was established. Thereafter, such amounts will be applied in accordance with the priorities set out above.

Waiver of Default

Except as described in the following sentence, an Extraordinary Resolution is required to waive any past default under the Master Trust Indenture or any Supplemental Indenture. The consent of all Debtholders is required to waive any past default in the payment of principal of, or interest on, any Funding Obligation.

Acceleration and Remedies

General

If an event of default described in paragraph (c) or (d) occurs with respect to all series of Funding Obligations or an event of default described in paragraph (g) or (h) occurs, either the Indenture Trustee or the holders of not less than 50% of the outstanding principal amount of all Funding Obligations (treated as one class) may declare the principal of all outstanding Funding Obligations to be immediately due and payable. If other events of default occur (other than an event of default described in paragraph (e)), either the Indenture Trustee or the holders of not less than 50% of the outstanding principal amount of Funding Obligations affected thereby (each series acting as a separate class) may declare the principal of the applicable Funding Obligations to be immediately due and payable. The occurrence of an event of default involving the bankruptcy or insolvency of the Issuer results in an automatic acceleration of all Funding Obligations.

A declaration of acceleration or an automatic acceleration may be rescinded by Extraordinary Resolution if the Issuer has paid all overdue interest, principal that has become due (other by reason of acceleration) and other amounts set out in the Master Trust Indenture.

If an event of default occurs and any Funding Obligations are accelerated, the Indenture Trustee may amongst other things, (i) apply to a court for an order of sequestration and payment of amounts in respect of Clean Energy Adjustments in accordance with the FHPA, (ii) take possession of the collateral, (iii) appoint a receiver with respect to the collateral, (iv) initiate proceedings in any court for the appointment of a receiver or for sale or foreclosure, (v) exercise rights, remedies, powers, privileges and claims under any Program Agreement, including the right to terminate and replace the Manager or the Servicer, or (vi) take any other action, suit, remedy or proceeding authorized or permitted by the Master Trust Indenture or by applicable law. The Indenture Trustee is not obligated to exercise any of its rights or powers under the Master Trust Indenture unless the holders of affected Funding Obligations offer the Indenture Trustee a reasonable indemnity.

See *"Risk Factors — ■"*.

Rights of Specified Creditors

The Indenture Trustee has agreed, and each specified creditor will be deemed to agree, that it will not at any time commence, or join in commencing, bankruptcy, insolvency or similar proceedings against the Issuer. No Debtholder will have the right to institute any proceeding, judicial or otherwise, with respect to the Master Trust Indenture, or for the appointment of a receiver or trustee or similar official, or for any other remedy under the Master Trust Indenture, unless:

(a) the Issuer or a Debtholder has previously given to the Indenture Trustee written notice of a continuing event of default;

(b) Debtholders, by Extraordinary Resolution, have made written request of the Indenture Trustee to institute the proceeding in its own name as Indenture Trustee;

(c) Debtholders have offered the Indenture Trustee a satisfactory indemnity; and

(d) the Indenture Trustee has, for 60 days, failed to institute the proceeding.

Subject to certain powers which may only be exercised by Extraordinary Resolution, Debtholders of not less than 50% of the outstanding principal amount of any accelerated series, class or tranche of Funding Obligations have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or exercising any trust or power conferred on the Indenture Trustee with respect to such series, class or tranche. However, the Indenture Trustee may decline to follow such direction if it determines (based on advice from counsel) that such direction (i) conflicts with applicable law or the Master Trust Indenture, (ii) has a substantial likelihood of involving the Indenture Trustee in personal liability or (iii) is unjustly prejudicial to Debtholders not taking part such direction. See *"Debtholder Approvals and Meetings—Debtholder Meetings"* for a description of certain powers which may only be exercised by Extraordinary Resolution.

Limited Recourse

The obligation of the Issuer to pay principal of and interest on the Funding Obligations or any other amount payable to any Debtholder is subject to the allocation and payment provisions in the Master Trust Indenture and the applicable Funding Obligation Agreement and limited to amounts available from the collateral. Neither the Indenture Trustee, the Manager nor the Issuer Trustee in its individual capacity, nor any holder of any ownership interest in the Issuer, nor any of their respective owners, beneficiaries, agents, officers, directors, employees, successors or assigns will, in the absence of an express agreement to the contrary, be personally liable for the payment of the principal of or interest on the Notes or any other Funding Obligation, or for the Issuer's covenants and agreements contained in the Master Trust Indenture.

Satisfaction and Discharge of Indenture

The Master Trust Indenture will cease to be of further effect with respect to any series, class or tranche of Notes and the Indenture Trustee, on the written demand and at the expense of the Issuer, will execute instruments acknowledging such satisfaction and discharge with respect to that series, class or tranche of Notes, when:

(a) all Notes of that series, class or tranche which have already been authenticated or delivered, with certain exceptions set forth in the Master Trust Indenture, have been delivered to the Indenture Trustee for cancellation,

(b) the Issuer has paid all other sums payable by it under the Master Trust Indenture with respect to that series, class or tranche of Notes, and

(c) the Issuer has delivered to the Indenture Trustee an officer's certificate and an opinion of external counsel each stating that the conditions precedent in the Master Trust Indenture relating to the satisfaction and discharge have been complied with.

DESCRIPTION OF NOTES

The following description of the Notes is a summary of certain of their material attributes and characteristics, and does not purport to be complete. The terms and conditions set forth in this "Description of the Notes" section will apply to each Note unless otherwise specified in the applicable Term Sheet. For further particulars, reference should be made to the Master Trust Indenture and the Supplemental Indenture and Terms Document, if any, relating to the particular series, class or tranche of Notes.

General

The Notes will be issued under the Master Trust Indenture and will be Funding Obligations issued in connection with the financing program described under the heading "Capital Markets Platform". The specific terms and conditions of each series, class or tranche of Notes are to be set forth in a Supplemental Indenture and, if applicable, a terms document (a "**Terms Document**") authorizing that series, class or tranche.

Under the Master Trust Indenture, the Issuer may issue an unlimited principal amount of Notes. See *"—Conditions Precedent to Issuance of Obligations Secured"*. The Notes will be direct obligations of the Issuer and secured in the manner provided for under the Master Trust Indenture. See *"Capital Markets Platform—Security"*.

The Supplemental Indenture or Terms Document will describe the following terms of the Notes:

- stated principal amount of the Notes;
- whether such Notes are of a particular class of Notes or a tranche of Notes;
- the currency or currencies in which such Notes will be denominated and in which payments of principal of, and interest on, such Notes will or may be payable;
- the price at which such series, class or tranche of Notes will be issued;
- the times at which such series, class or tranche of Notes may, pursuant to any optional or mandatory redemption provisions, be redeemed, and the other terms and provisions of any such redemption;
- the rate per annum at which such series, class or tranche of Notes will bear interest, if any, or the formula or index on which such rate will be determined;
- the initial dollar principal amount or the initial currency specific dollar principal amount of such Notes, and the means for calculating the outstanding dollar principal amount or the outstanding currency specific dollar principal amount of such Notes;
- each payment date, the scheduled final payment date and the legal maturity date;
- any events of default or early amortization events with respect to such series, class or tranche of Notes if not set forth in the Master Trust Indenture, and any additions deletions or other changes to the events of default or early amortization events set forth in the Master Trust Indenture with respect to such series, class or tranche of Notes;
- if such series, class or tranche of Notes will be issues in whole or in part in the form of a global note, the terms and conditions, if any, upon such global note may be exchanged for other individual Notes, and the depository for such global note;
- if such series, class or tranche of Notes will be issued in whole or in part as registered Notes, bearer Notes or both, and if such Notes will be issued with or without coupons;
- if such series, class or tranche will have the benefit of a derivative agreement, credit enhancement agreement or liquidity agreement, and the terms and provisions of the applicable agreement;
- the subordination of such series, class or tranche of Notes to any other indebtedness of the Issuer, including the Notes of any other series, class or tranche;
- the record date for any payment date of such series, class or tranche of Notes, if different from the last of the month before the related payment; and

- the details of any amortization period or accumulation period for such series, class or tranche of Notes and the amount scheduled to be deposited in any applicable Issuer account on each payment date during such period.

Payments of Principal and Interest

Unless otherwise specified in a Term Sheet, the Issuer has designated [OPG] as its paying agent for all Notes having a place of payment in Toronto, Ontario.

Interest will accrue on the principal balance of each Note at the interest rate specified in the Term Sheet. Unless otherwise specified in the Term Sheet, interest will be payable on the [15th] day of each calendar month (each, a "**payment date**"). Principal of the Notes of each series, class or tranche will be payable in the amounts and on the payment dates specified in the Term Sheet. The Term Sheet will also set out the scheduled final payment of the series, class or tranche of Notes, which is the date that the Issuer expects to pay the stated principal amount of such Notes, and the legal maturity date. On each payment date, the paying agent will pay to Noteholders principal and interest then due on the Notes using available collections and amounts available in certain other Issuer accounts. Please read "Payment Priorities". However, you may receive principal payments earlier if an early amortization period begins or later if the payment rate deteriorates or insufficient available collections are accumulated in the collection account and the other Issuer accounts. In addition, principal of a note may be paid earlier than its scheduled final payment date if an optional or mandatory redemption occurs. It is not an event of default if the stated principal amount of a series, class or tranche of Notes is not paid in full on its scheduled final payment date. However, if the stated principal amount of a series, class or tranche of note is not paid in full on its scheduled final payment date, an early amortization event will occur. See *"Capital Markets Platform—Early Amortization Events"*. If the stated principal amount of a note is not paid in full by its legal maturity date, an event of default will occur. See *"Capital Markets Platform—Events of Default"*.

See *"Risk Factors"* for a discussion of factors that may affect the timing of principal payments on a series, class or tranche of Notes.

DEPOSITORY SERVICES

Except as otherwise provided below, the Notes will be issued in "book-entry only" form and must be purchased, transferred, redeemed or exchanged through participants ("**Participants**") in the depository service of a depository chosen by the Issuer (the "**depository**") or its nominee, which include securities brokers and dealers, banks and trust companies. On the closing date of an Offering, the Issuer will cause a global certificate representing the Notes to be delivered to, and registered in the name of, the depository or its nominee. Except as described below, no purchaser of Notes will be entitled to a certificate or other instrument from the Issuer or the depository evidencing that purchaser's ownership thereof, and no purchaser will be shown on the records maintained by the depository except through a book-entry account of a Participant acting on behalf of such purchaser. Each purchaser of Notes will typically receive a customer confirmation of purchase from the registered dealer from which the Notes are purchased in accordance with the practices and procedures of that registered dealer. The practices of registered dealers may vary, but generally, customer confirmations are issued promptly after execution of a customer order. The depository will be responsible for establishing and maintaining book-entry accounts for its Participants having interests in the Notes.

Neither the Issuer, the Indenture Trustee nor the Agents will assume any liability for: (i) any aspect of the records relating to the beneficial ownership of the Notes held by the depository or the payments relating thereto; (ii) maintaining, supervising or reviewing any records relating to the Notes; or (iii) any advice or representation made by or with respect to the depository or those contained in this confidential shelf offering memorandum and relating to the rules governing the depository or any action to be taken by the depository or at the direction of its Participants. The rules governing the depository provide that it acts as the agent and depository for the Participants. As a result, Participants must look solely to the depository and persons, other than Participants, having an interest in the Notes must look solely to Participants for payments made by or on behalf of the Issuer to the depository in respect of the Notes.

If: (i) required by applicable law; (ii) the depository notifies the Issuer in writing that the depository is no longer willing or able to discharge properly the responsibilities of a depository with respect to the Notes and the Issuer is unable to locate a qualified successor; (iii) the Issuer determines; (iv) an event of default has occurred and Noteholders holding more than 50% of the outstanding principal amount of the applicable Notes determine such book-entry system is no longer in their best interests; then certificates representing the Notes will be issued to the beneficial owners of Notes or their nominees; or (v) the book-entry system is terminated. ***[NTD: Conform to Indenture when settled.]***

Manner of Effecting Transfer or Redemption

A transfer or redemption of Notes held in "book-entry form" only will be effected through records maintained by the depository or its nominee with respect to interests of Participants, and on the records of Participants with respect to interests of persons other than Participants. Purchasers of such Notes who are not Participants, but who desire to purchase, sell or otherwise transfer ownership of or other interests in the Notes, may do so only through Participants.

DTC, Euroclear and Clearstream, Luxembourg

Where CDS acts as depository for a series of Notes, to the extent the Issuer makes such series of Notes eligible with The Depositary Trust Company ("**DTC**"), Euroclear Bank S.A./N.V., as operator of the Euroclear System ("**Euroclear**") and Clearstream Banking, société anonyme ("**Clearstream, Luxembourg**"), and the Issuer specifies as such in the Term Sheet with respect to the particular series of Notes, holders may hold such series of Notes through the accounts maintained by DTC, Euroclear or Clearstream, Luxembourg, as applicable, as participants in CDS only if they are participants of those systems, or indirectly through organizations which are participants of those systems.

In such case, DTC, Euroclear and Clearstream, Luxembourg will hold omnibus book-entry positions on behalf of their participants through customers' securities accounts in their respective depositaries which in turn will hold such positions in customers' securities accounts in the names of the nominees of the depositaries on the books of CDS. All securities in DTC, Euroclear and Clearstream, Luxembourg are held on a fungible basis without attribution of specific certificates to specific securities clearance accounts.

Transfers of such Notes by persons holding through Euroclear or Clearstream, Luxembourg participants, as applicable, will be effected through CDS, in accordance with CDS rules, on behalf of the relevant European international clearing system by its depositaries; however, such transactions will require delivery of transfer instructions to the relevant European international clearing system by the participant in such system in accordance with its rules and procedures and within its established deadlines (European time). The relevant European international clearing system will, if the transfer meets its requirements, deliver instructions to its depositaries to take action to effect the transfer of the Notes on its behalf by delivering Notes through CDS and receiving payment in accordance with its normal procedures for next-day funds settlement. Payments with respect to the Notes held through Euroclear or Clearstream, Luxembourg will be credited to the cash accounts of Euroclear participants or Clearstream, Luxembourg participants in accordance with the relevant system's rules and procedures, to the extent received by its depositaries.

All information in this confidential shelf offering memorandum concerning CDS, DTC, Euroclear and Clearstream, Luxembourg, reflects the Issuer's understanding of the policies of such organizations which may change at any time without notice.

PLAN OF DISTRIBUTION

The Notes may be sold by the Issuer directly pursuant to applicable statutory exemptions or through agents designated by the Issuer from time to time (the "**Agents**"). Each Term Sheet will identify the Agents engaged in connection with the applicable Offering of Notes and will also set forth the terms of the Offering of Notes, including the net proceeds to the Issuer and, to the extent applicable, any fees payable to the Agents. The Agents will

conditionally offer the Notes for sale on a "best efforts" basis, if, as and when issued and delivered by the Issuer in accordance with the conditions contained in an agency agreement (the "**Agency Agreement**") between the Issuer and the Agents to be entered into on or about the date of each Term Sheet. The Agents will be paid a fee for their services rendered to the Issuer in connection with the offering, issue and sale of the Notes. The obligations of the Agents under the Agency Agreement may be terminated upon the occurrence of certain stated events. The Agents may over-allot or effect transactions which stabilize or maintain the market price of the Notes at a level different than that which might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at any time.

The Notes may not be offered or sold, directly or indirectly, in Canada or to or for the account of any Canadian resident except, in the case of sales made in any province [or territory] of Canada, pursuant to an exemption from the prospectus requirements in Section 2.3 of NI 45-106 and, in the case of a purchaser resident in Ontario, section 73.3(2) of the *Securities Act* (Ontario), also known as the "accredited investor" exemption. In addition, Notes will not be offered or sold, directly or indirectly, to individuals unless those individuals are also "permitted clients" within the meaning of NI 31-103.

Resale of the Notes will be subject to restrictions under applicable securities legislation which vary depending on the relevant jurisdictions. **The Notes may only be sold on a basis that is exempt from the prospectus requirements of applicable securities legislation through an appropriately registered dealer or pursuant to an exemption from the registration requirements of applicable securities legislation**. See *"Restrictions on Resale"*.

This confidential shelf offering memorandum does not constitute an offer to sell or a solicitation of an offer to buy any of the Notes in the United States. The Notes have not been and will not be registered under the U.S. Securities Act or any state securities laws and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (as such term is defined in Regulation S under the U.S. Securities Act) unless the Notes are registered under the U.S. Securities Act and applicable state securities laws or an exemption therefrom is available. In addition, until 40 days after the commencement of an Offering, any offer or sale of the Notes within the United States by any dealer (whether or not participating in an Offering) may violate the registration requirements of the U.S. Securities Act if such offer or sale is made otherwise than in accordance with an exemption from the registration requirements of the U.S. Securities Act. Each Agent has agreed that, except as permitted by an Agency Agreement, it will not offer or sell the Notes as part of the distribution of the Notes at any time within the United States or to, or for the account or benefit of, U.S. persons.

RISK FACTORS

Prospective investors in the Notes should carefully consider all the information included in this confidential shelf offering memorandum, including the risks described below, before deciding to invest in the Notes.

Judicial, Legislative or Regulatory Risks

Future legal action might challenge or invalidate the FHPA or the Regulations and materially adversely affect a holder's investment in the Notes.

The Investment Asset is a creation of the FHPA, which became effective on June 1, 2017. The Issuer will be the first Financing Entity under the FHPA to issue Funding Obligations as contemplated under the FHPA. The FHPA, the Regulations or any provisions thereof might be directly contested in courts or otherwise become the subject of litigation. The FHPA is novel legislation in Canada and therefore there are no precedents to rely on to support the validity of the FHPA or the Regulations.

As of the date of this confidential shelf offering memorandum, no such litigation has arisen; however, there can be no assurance that a lawsuit challenging the validity of some portion or all of the FHPA or the Regulations will not be filed in the future or that, if filed, such lawsuit will not be successful. If such a lawsuit were successful, it would likely be a Protection Event and the provisions of the Change of Law Protection Agreement would apply. See *"Change of Law Protection Agreement"*. If such successful lawsuit was not, however, a Protection Event, and an invalidation of any relevant underlying legislative or regulatory provision were to result, a holder of Notes may lose

some or all of their investment in the Notes or experience significant delays in recovering their investment in the Notes.

Future legislative action to change the FHPA or the Change of Law Protection Agreement might materially adversely affect a holder's investment in the Notes.

The FHPA provides that no act or omission of the Province of Ontario shall be effective to reduce, impair, postpone or terminate the obligations of Specified Consumers to pay amounts in respect of the Clean Energy Adjustment or to impair or postpone the invoicing, collection or remittance of the Clean Energy Adjustment. Ontario does not have a referendum or initiative process by which the FHPA may be amended or revoked. Therefore, the only way for such provisions of the FHPA to be amended or revoked would be through a subsequent legislative action by the Province of Ontario. Any such action that materially and adversely effects the ability of the Issuer to receive amounts in respect of the Investment Interest would likely be subject to the Change of Law Protection Agreement. See *"Change of Law Protection Agreement"*. However, future legislative action by the Province of Ontario could also be taken that would have the effect of voiding or otherwise rendering invalid the Change of Law Protection Agreement.

Canada does not have any constitutional protection of property rights. While an adverse impact of statutory measures on private property has, in some circumstances, been judicially held to entitle property owners to compensation, such entitlements themselves can also be extinguished by legislation. Accordingly, if the provisions of the FHPA referenced in the previous paragraph were amended or revoked through subsequent legislative action of the Province of Ontario and future legislative action was also taken by the Province of Ontario that had the effect of voiding or otherwise rendering invalid the Change of Law Protection Agreement, a holder of Notes may lose some or all of their investment in the Notes or experience significant delays in recovering their investment in the Notes.

Future judicial action could reduce the value of a holder's investment in the Notes.

The Investment Asset is the creation of the FHPA. There is uncertainty associated with investing in Notes payable from an asset that depends for its existence on legislation because there is no juridical or regulatory experience implementing and interpreting the legislation or similar legislation in Canada. Because the Investment Asset is a creation of the FHPA, any judicial determination interpreting the FHPA or the Investment Asset might have an adverse effect on a holder of Notes' investment in the Notes.

Potential difficulties in enforcing civil liabilities against the Province of Ontario may arise.

Under the *Proceedings Against the Crown Act* (Ontario), the remedies of injunction and specific performance are not available against the Province of Ontario, although the remedy of damages is available. As a result, if the Province of Ontario fails to comply with the Change of Law Protection Agreement, the Indenture Trustee's ability to obtain an effective remedy against the Province of Ontario is limited.

Risks Associated with the Unusual Nature of the Investment Asset

Clean Energy Adjustments will not be payable until May 1, 2021 and until such time the IESO will be the sole source of funds for payment on the Notes.

During the Moratorium Period, no Clean Energy Adjustments are permitted to be collected from Specified Consumers. During the Moratorium Period, a holder of Notes must rely for payment of interest on the Notes, and the Issuer must rely for payment of all of its other carrying costs, solely upon the IESO who is obligated under the Regulations to pay these carrying costs. The IESO has granted the Issuer a first-priority security interest in all its accounts receivable from Electricity Vendors[, which includes the global adjustment charge], ***[NTD: To be confirmed]*** as security for the performance of its regulatory obligation to pay the Issuer's carrying costs. The IESO also has a [$2 billion] unsecured credit facility agreement with the [Ontario Financing Authority], expiring ■, 20■, available for the purposes of paying the Issuer's carrying costs. ***[NTD: IESO credit facility description to be confirmed.]*** There can be no assurance that the IESO will continue to have sufficient funds available to pay interest on the Notes or to pay the Issuer's other carrying costs during the Moratorium Period. If the Issuer enforces the security granted to the Issuer by the IESO during this period, there can be no assurance that the IESO's accounts

receivable from Electricity Vendors will be sufficient to pay interest on the Notes or the Issuer's other carrying costs. *[NTD: Consider additional disclosure regarding the IESO's other creditors.]*

Under various Canadian bankruptcy, insolvency and restructuring statutes or Canadian federal or provincial receivership laws, including the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), the *Canada Business Corporations Act*, the *Winding-up and Restructuring Act*, and various provincial corporate statutes (collectively, "**Canadian Insolvency and Restructuring Laws**"), the Issuer's ability to enforce security granted by the IESO may be significantly impaired or delayed. In view of the broad discretionary powers of courts under Canadian Insolvency and Restructuring Laws, it is impossible to predict how long payments under the Master Transfer and Servicing Agreement could be delayed following commencement of a proceeding under Canadian Insolvency and Restructuring Laws by the IESO or whether or when the Issuer would be able to repossess or dispose of the assets over which it holds a security interest.

Canadian Insolvency and Restructuring Laws also contain provisions enabling an obligor to prepare and file a proposal or a plan of arrangement or reorganization for consideration by all or some of its creditors, to be voted on by the various classes of creditors affected thereby. Such a restructuring proposal or plan of arrangement or reorganization, if accepted by the requisite majority of each class of affected creditors and if approved by the relevant Canadian court, would be binding on all creditors of the applicable obligor within the affected classes, including the Issuer. Such a proposal or plan of arrangement or reorganization may have the effect of compromising certain rights available to the Issuer under the Master Transfer and Servicing Agreement.

A holder of Notes may experience material payment delays because the source of funds for payment after the Moratorium Period is limited.

A holder of Notes may suffer material payment delays on the Notes if the collateral securing the Notes is insufficient to pay the accrued interest on and the principal amount of those Notes in full. After the Moratorium Period, the only source of funds for payments of interest on and principal of the Notes will be the collateral. The collateral for the Notes will be limited to:

- the Investment Interest, including the right to impose, bill, collect and receive Clean Energy Adjustment amounts, inclusive of the True-up Amount;
- the cash and investments on deposit in the accounts held by the Indenture Trustee; and
- the Issuer's rights under various contracts described in this confidential shelf offering memorandum and under the FHPA and Regulations.

The Notes will not be insured or guaranteed by the Province of Ontario, the IESO, OPG or any of their respective affiliates, the Indenture Trustee or any other person or entity. The Notes will be nonrecourse obligations, secured only by the collateral. Delays in payment on the Notes might result in a reduction in the market value of the Notes and, therefore, the value of a holder's investment in the Notes.

The Notes do not constitute a debt, liability or other obligation of, or interest in, OPG or any of its other affiliates (other than the Issuer). The Notes are not a debt or general obligation of the Province of Ontario or any of its political subdivisions, agencies or instrumentalities. However, insofar as the Province of Ontario or any such political subdivision, agency or instrumentality is a Specified Consumer, such governmental entity will be obligated, in its capacity as a Specified Consumer, to pay Clean Energy Adjustment amounts that will be collected and remitted to the Issuer in respect of its Investment Interest securing the Notes.

A holder of Notes must rely for payment of principal of and interest on the Notes solely upon the FHPA and the Regulations, rights to enforcement of the FHPA, the Regulations and of various contracts described in this confidential shelf offering memorandum, collections of Clean Energy Adjustment amounts and cash and investments on deposit in the related accounts held pursuant to the Master Trust Indenture.

The credit ratings of the IESO and OPG might affect the market value of the Notes.

Although neither the IESO nor OPG is an obligor in respect of the Notes, a downgrading of the current credit ratings of the IESO or OPG might have an adverse effect on the market value of the Notes, particularly during the Moratorium Period when no Clean Energy Adjustments are permitted to be collected from Specified Consumers. Credit ratings might change at any time. A rating agency has the authority to revise or withdraw its rating based solely upon its own judgment.

Foreclosure of the Indenture Trustee's lien on the Investment Interest securing the Notes might not be practical and acceleration of the Notes before maturity might have little practical effect.

Under the Master Trust Indenture, the Indenture Trustee on behalf of the holders of Notes and other creditors has the right to foreclose or otherwise enforce the lien granted to the Indenture Trustee by the Issuer on the collateral securing the Notes. However, in the event of foreclosure, there is likely to be a limited market, if any, for the collateral. Therefore, foreclosure might not be a realistic or practical remedy. Moreover, although principal of the Notes will be due and payable upon acceleration of the Notes before maturity, under the Regulations, the amount of the Clean Energy Adjustment may not be increased to take into account such acceleration (subject to limited exceptions depending on the Fair Allocation Amount at the time). As a result, this limitation on increases to the Clean Energy Adjustment at the time of any acceleration of the Notes prior to maturity will result in principal of the Notes being paid on acceleration as funds become available. However, upon such acceleration, the priority of payments to creditors of the Issuer will result in all accelerated Notes being repaid in full before any further payments are made to holders of subordinated indebtedness of the Issuer.

The Issuer may have a co-ownership interest in the Investment Asset with other Financing Entities.

The FHPA authorizes the establishment of one or more Financing Entities that may incur Funding Obligations for the purpose of acquiring an Investment Interest. The Master Trust Indenture does not contain any restrictions on the establishment of other Financing Entities or any restrictions on the transfer by the IESO of a specified portion of the Regulatory Asset to other Financing Entities. If additional Funding Obligations are incurred by other Financing Entities to acquire an Investment Interest, Clean Energy Adjustment amounts collected by or for the benefit of the Issuer will be prorated among all Investment Interest owners based on the respective amounts of Clean Energy Adjustment amounts invoiced and not yet paid. Any issuance of Funding Obligations by other Financing Entities could cause reductions or delays in payment on the Notes.

The Issuer may issue multiple Series of Notes secured by the Investment Interest and some decisions affecting holders of Notes may require the approval of all Series.

The Issuer may issue multiple Series of Notes all of which will be secured by the collateral securing the Notes. The Issuer may not issue additional Series of Notes if the issuance would not satisfy the Rating Agency Condition and certain other conditions precedent in the Master Trust Indenture. See *"Master Trust Indenture"*. If additional Series of Notes are issued, Clean Energy Adjustment amounts collected by or for the benefit of the Issuer will be prorated among the Series of Notes based on the respective amounts of interest and principal due and payable or required to be accumulated in respect of each Series of Notes. Any issuance of additional Series of Notes by the Issuer could cause reductions or delays in payment on the Notes. In addition, some matters relating to the Notes issued by us may require the vote of the holders of all Series of Notes. The interests of holders of a particular Series of Notes in these votes might conflict with the interests of the holders of another Series of Notes. Thus, these votes could result in an outcome that is materially unfavorable to holders of a particular Series of Notes.

The Master Trust Indenture contains Events of Default (other than those pertaining to the insolvency of the Issuer or invalidity of the Change of Law Protection Agreement) that can only be declared by Debtholders who hold at least 25% of the outstanding Controlling Class Obligations. Upon such Events of Default, Debtholders who hold at least 50% of the outstanding Controlling Class Obligations may accelerate all Issuer Funding Obligations (other than Derivative Funding Obligations). However, it is possible for individual Series of Notes to have their own Acceleration Events such that those individual Series of Notes may be accelerated while other Series of Issuer Funding Obligations would not be accelerated. See *"Master Trust Indenture"*. In such a case, (i) the allocation of Available Collections to the holders of accelerated Series of Issuer Funding Obligations in a Class would be higher

relative to the non-accelerated Series of Issuer Funding Obligations of that Class than it would otherwise be, and (ii) after payment in full of accelerated Senior Notes and other Senior Funding Obligations and once all amounts due and payable on non-accelerated Senior Notes and other Senior Funding Obligations have been satisfied on any principal payment date, amounts remaining for payment of principal would be allocated to the repayment of principal on both accelerated and non-accelerated subordinated debt, as applicable. See *"Master Trust Indenture"*.

If the Clean Energy Adjustment amounts and other funds held in the Issuer Accounts results in investment losses or the investments become illiquid, a holder of Notes might receive payment of principal of and interest on the Notes later than expected.

Funds held in the Issuer Accounts will be invested in eligible investments. Eligible investments include money market funds having a rating in the highest investment category from both DBRS and Moody's. Although investments in these money market funds have traditionally been viewed as highly liquid with a low probability of principal loss, illiquidity and principal losses have been experienced by investors in certain of these funds as a result of disruptions in the financial markets in recent years. If investment losses or illiquidity are experienced, a holder of Notes might experience a delay in payments of principal and interest and a decrease in the value of their investment in the Notes.

The credit ratings are not an indication of the expected rate of payment of principal on the Notes.

The Notes will be rated by one or more established rating agencies. A rating is not a recommendation to buy, sell or hold the Notes. The ratings merely analyze the probability that the Issuer will repay the total principal amount of each series of Notes at its Principal Payment Default Date (which is later than the Principal Payment Date(s)) and will make timely interest payments. The ratings are not an indication that the rating agencies believe that principal payments are likely to be paid on time according to any expected sinking fund schedule. Thus, the Issuer might repay the principal of a holder of Notes later than expected, which might materially reduce the value of a holder's investment in the Notes.

If the ratings on the Notes are withdrawn or revised, the value of a holder's investment in the Notes may be adversely affected.

The ratings on the Notes may be withdrawn or revised, which may have an adverse effect on the market price of the Notes. A rating is not a recommendation to buy, sell or hold the Notes. The ratings are assessments by the respective rating agencies of the likelihood that interest and principal on the Notes will be paid on a timely basis. Ratings on the Notes may be lowered, qualified or withdrawn at any time without notice.

The absence of a secondary market for the Notes might limit the ability to resell the Notes.

The Agents might assist in resales of the Notes, but they are not required to do so. A secondary market for the Notes might not develop. If a secondary market does develop, it might not continue or it might not be sufficiently liquid to allow a holder of Notes to resell any of its Notes.

Servicing, Operating and Consumer Risks

Payments on the Notes depends on the performance of Electricity Vendors and the IESO.

The Issuer's receipt of Clean Energy Adjustment amounts, which will be used to make payments on the Notes, will depend in part on the skill and diligence of Electricity Vendors and the IESO and their respective successors in performing their respective duties under the FHPA, the Regulations and, with respect to the IESO, the Master Transfer and Servicing Agreement.

If an Electricity Vendor ceases to perform, or inadequately performs, the billing and collection functions pursuant to the terms of the FHPA and the Regulations, it might be difficult for the Issuer to enforce these obligations against an Electricity Vendor on a timely basis.

If the IESO ceases to perform, or inadequately performs, its collection, remittance, forecasting and other functions under the terms of the FHPA, the Regulations and the Master Transfer and Servicing Agreement, it might be difficult to enforce these obligations against the IESO. While the Indenture Trustee has the right to replace the IESO, as servicer, on an Event of Default upon receipt of an Ordinary Resolution, it might be difficult to find a replacement for the IESO or a successor servicer. Also, any successor servicer might have less experience and ability than the IESO and might experience difficulties in collecting Clean Energy Adjustment amounts or forecasting consumption, resulting in delays or disruptions to the setting and collection of the Clean Energy Adjustment. Any successor servicer would likely charge fees for the provision of such services and such fees could be material.

If an Electricity Vendor or the IESO fails to collect or remit sufficient Clean Energy Adjustment amounts for any reason, then the IESO's payments to the Issuer in respect of the Clean Energy Adjustments might be delayed or reduced. In that event, payments on the Notes might be delayed or reduced. In addition, any person into which the IESO may be merged, converted or amalgamated or that may succeed to the properties and assets of the IESO substantially as a whole will assume the role of servicer under the Master Transfer and Servicing Agreement, subject only to the satisfaction of the conditions set forth therein. These conditions do not include either the consent of holders of Notes or satisfaction of the Rating Agency Condition.

Payments on the Notes depends on the performance of OPG as Financial Services Manager and Manager of the Issuer.

If OPG, as Financial Services Manager, ceases to perform, or inadequately performs, its statutory duties under the FHPA and the Regulations, including determining the Clean Energy Adjustment (inclusive of the True-Up Amount), the Indenture Trustee will have no right to replace OPG as Financial Services Manager. If OPG ceases to perform, or inadequately performs, its management duties under the Management Agreement, the Indenture Trustee has the right to replace the Manager on an Event of Default upon receipt of an Ordinary Resolution but it might be difficult to find a replacement for OPG or a successor manager. Also, any successor manager might have less experience and ability than OPG, resulting in delays or disruptions to the setting and collection of the Clean Energy Adjustment. Any successor manager would likely charge fees for the provision of such services and such fees could be materially higher than the fees charged by OPG.

Inaccurate consumption forecasting or unanticipated delinquencies or write-offs might reduce scheduled payments on the Notes.

Clean Energy Adjustment amounts are calculated based upon forecasted Specified Consumer usage, including the effect of delinquencies and write-offs. Under the FHPA, the IESO is required to forecast electricity consumption of Specified Consumers. The amount and the rate of the Clean Energy Adjustment will depend in part on actual electricity usage and the amount of collections and write-offs for Specified Consumers. If the IESO or a successor inaccurately forecasts electricity consumption or if OPG uses inaccurate consumer delinquency or write-off data when setting or adjusting the Clean Energy Adjustment, there could be a shortfall or material delay in collections, which might result in missed or delayed payments of principal and interest and lengthened weighted average lives of the Notes.

Inaccurate forecasting of electricity consumption by the IESO might result from, among other things unanticipated weather, resulting in less electricity consumption than forecast; general economic conditions being worse than expected, causing Specified Consumers to reduce their electricity consumption; the occurrence of a natural disaster, such as a hurricane, wind storm or an act of terrorism, cyber-attack or other catastrophic event unexpectedly disrupting electrical service and reducing electricity consumption; unanticipated changes in the market structure of the electric industry; large Specified Consumers unexpectedly ceasing business or departing from the Province of Ontario; dramatic and unexpected changes in energy prices resulting in decreased electricity consumption; Specified Consumers consuming less electricity than anticipated because of increased energy prices, unanticipated increases in conservation efforts or unanticipated increases in electric consumption efficiency; differences or changes in forecasting methodology; or large Specified Consumers switching to alternative sources of energy, including self-generation or co-generation of electric power in some cases without using Ontario's transmission or distribution system. Self-generators that receive no transmission or distribution service from the Province of Ontario are not

liable for the Clean Energy Adjustment. Neither the FHPA nor the Regulations provide for exit fees to be charged to any Specified Consumers that might leave the grid to self-generate.

Inaccurate forecasting of delinquencies or write-offs by OPG could result from, among other things unexpected deterioration of the economy, the occurrence of a natural disaster, an act of war or terrorism or other catastrophic events causing greater write-offs than expected or forcing Electricity Vendors to grant additional payment relief to more consumers; the failure of Electricity Vendors to submit accurate and timely information to the IESO regarding their collections and write-offs; an unexpected change in law that makes it more difficult for Electricity Vendors to terminate service to nonpaying Specified Consumers, or that requires Electricity Vendors to apply more lenient credit standards for Specified Consumers.

Changes to billing and collection practices may reduce the amount of funds available for payments on the Notes.

The methodology for determining the amount of the Clean Energy Adjustment invoiced to each Specified Consumer is specified in FHPA and the Regulations. None of OPG, the IESO or any Electricity Vendor, as it performs its billing and collection functions on the Issuer's behalf, may change this methodology. However, subject to applicable law, tariff and regulatory requirements, billing and collection arrangements with each Specified Consumer may be changed in a manner that delays or reduces the payments to the Issuer in respect of the Clean Energy Adjustment. For example, an Electricity Vendor's conditions of service may permit it to offer equal monthly billing plans to its consumers thereby delaying payments from one month to the next during the year or to enter into arrangements for the payment of arrears. In that event, collection of the Clean Energy Adjustment may be delayed or reduced until an adjustment is made.

Limits on rights to terminate service to Specified Consumers might make it more difficult to collect the Clean Energy Adjustment.

To the extent that Specified Consumers do not pay for their electricity service, Electricity Vendors will not be able to collect the Clean Energy Adjustment from these Specified Consumers. Electricity Vendors have the ability to terminate service for non-payment subject to the terms of their conditions of service, which conditions must be consistent with the OEB's rules regarding disconnection. Under OEB rules, electricity vendors are prohibited from disconnecting or threatening to disconnect homes for non-payment during the winter from November 15 to April 30 every year. Historical rates of non-payment are included in the calculations of the Clean Energy Adjustment, but increases in the rates of non-payment would reduce the Clean Energy Adjustment until it is adjusted through the True-up Amount in a subsequent Reference Period.

It might be difficult for the Issuer to collect the Clean Energy Adjustment from Specified Consumers

Under the FHPA, the Issuer may bring an action against a Specified Consumer for non-payment of the Clean Energy Adjustment, but only an Electricity Vendor may terminate service for failure to pay the Clean Energy Adjustment. The FHPA provides that partial payment of electricity invoices shall be allocated pro rata among the Clean Energy Adjustment and other charges on the invoice. Since the Issuer does not have the threat of termination of service available to enforce payment of the Clean Energy Adjustment, it would need to rely on the Electricity Vendor to threaten to terminate service for nonpayment of other portions of the electricity invoice. This inability might reduce the value of a holder's investment in the Notes.

Indemnification obligations of OPG and the IESO are limited and might not be sufficient to protect the investments in the Notes.

OPG will be obligated under the Management Agreement to indemnify the Issuer and the Indenture Trustee, for itself and on behalf of the holders of Notes and other creditors, only in specified circumstances. Likewise, the IESO will be obligated under the Master Transfer and Servicing Agreement and the Acknowledgement and Indemnity Agreement to indemnify the Issuer and the Indenture Trustee, for itself and on behalf of the holders of Notes and other creditors, only in specified circumstances. ***[NTD: Subject to finalization of indemnities.]***

Furthermore, neither OPG nor the IESO may have sufficient funds available to satisfy its indemnification obligations, and the amount of any indemnification paid by OPG or the IESO, as applicable, might not be sufficient

for holders of Notes to recover all of their investment in the Notes. In addition, if OPG or the IESO becomes obligated to indemnify holders of Notes, the ratings on the Notes might be downgraded as a result of the circumstances causing the breach and the fact that holders of Notes will be unsecured creditors of OPG or, after the Moratorium Period, the IESO, as applicable, with respect to any of these indemnification amounts. Neither OPG nor the IESO will indemnify any person for any loss, damages, liability, obligation, claim, action, suit or payment resulting solely from a downgrade in the ratings on the Notes, or for any consequential damages, including any loss of market value of the Notes resulting from a default or a downgrade of the ratings of the Notes.

Delinquent or partial payments of electricity bills may make principal payments on the Notes occur later than expected.

The amount and the rate of collection of the Clean Energy Adjustment, including the True-up Amount, will impact whether there is a delay in the scheduled repayments of principal on the Notes. If the Clean Energy Adjustment amounts are collected at a slower rate than expected, OPG might have to make adjustments to the Clean Energy Adjustment for a subsequent Reference Period through the True-Up Amount. If those adjustments are not timely and accurate, there may be a delay in payments of principal and interest and a decrease in the value of the Notes.

Power outages could impair payment of the Notes.

Ontario experiences seasonal conditions typical of southeastern Canada. Summers are usually hot with high temperatures in excess of 20°C. Winters include snow and icing conditions that can be damaging to overhead power lines. Transmission and/or distribution and generation facilities could be damaged depending on weather conditions and usage of electricity could be interrupted temporarily or for long periods of time, reducing the Clean Energy Adjustment amounts collected in one or more Reference Periods.

Technological change might make alternative energy sources more attractive in the future.

Technological developments and/or tax or other economic incentives might result in the introduction of economically attractive, more fuel-efficient, more environmentally-friendly and/or more cost-effective alternatives to purchasing electricity through Electricity Vendors for increasing numbers of Specified Consumers. Manufacturers of self-generation facilities may develop smaller-scale, more fuel-efficient on-site generating and/or storage units that can be cost-effective options for a greater number of Specified Consumers. Moreover, an increase in self-service power may result if extreme weather conditions result in regular shortages of grid-supplied energy or if other factors cause grid-supplied energy to be less reliable. Specified Consumers who self-generate their electricity may use it to offset, or eliminate, their consumption from the grid thereby reducing, or eliminating, the Clean Energy Adjustment amounts payable by such Specified Consumers. Technological developments might allow greater numbers of Specified Consumers to reduce or even altogether avoid the payment of Clean Energy Adjustment amount under such provisions through on-site generation, including where coupled with on-site storage capacity. This might reduce the kilowatt-hours of electric energy delivered to Specified Consumers by means of an Electricity Vendor's system, thereby causing Clean Energy Adjustment charges to the remaining Specified Consumers to increase. Such increases may reduce the collectability of the Clean Energy Adjustment. ***[NTD: Consider inclusion of any other factors that may reduce the number of Specified Consumers i.e. due to population changes, as a result of people moving or Electricity Vendor failures?]***

Bankruptcy-Related Risks Relating to the Issuer

Ordinarily, the interests of the Issuer as transferee of the Investment Interest may be subordinate to statutory deemed trusts and other non-consensual liens, trusts and claims created or imposed by statute or rule of law on the property of the IESO arising prior to the time an Investment Interest is transferred to the Issuer, which could reduce the amounts that may be available to the Issuer and, consequently, the holders of Notes. Section 27(3) of the FHPA provides that at the time of the transfer to a Financing Entity, such transfer shall be deemed to have been perfected, vested, valid and binding against the IESO and all other persons who have claims of any kind against the IESO. Section 27(4) of the FHPA provides that section 27(3) applies regardless of whether the persons who have claims have received notice of the transfer and the property rights and interests acquired by the transferee shall have priority over any liens in favour of those persons. However, in the event that the IESO becomes insolvent its insolvency would be subject to federal bankruptcy and insolvency legislation and the effect of these provisions of

the FHPA in such circumstances is untested. The IESO will treat the transactions described herein as a transfer of its regulatory asset to the Issuer. Such transfers will be made in accordance with Section 26 of the FHPA. Section 27(1) of the FHPA provides that a transfer of a specified portion of the IESO's regulatory asset under section 26 constitutes a valid and enforceable absolute assignment, conveyance and sale of the corresponding Investment Interest to the transferee. As a transfer, the Investment Interest would not form part of the assets of the IESO and would not be available to the creditors of the IESO. However, with respect to certain insolvency events relating to the IESO, it is possible that an insolvency administrator or a creditor of the IESO may attempt to argue that the transactions between the IESO and the Issuer are not true sales of the Investment Interest. This position, if accepted by a court applying federal bankruptcy and insolvency laws, could prevent timely or ultimate payment of amounts due to the Issuer and, consequently, due from the Issuer to holders of Notes.

Also, in the case of the insolvency of the Issuer Trustee, it is possible that the creditors of the Issuer Trustee may attempt to argue that the assets of the Issuer are held by the Issuer Trustee in its personal capacity (and not as trustee of the Issuer) and are to be available to the creditors of the Issuer Trustee. Assuming that the Issuer Trustee deals with the assets of the Issuer in accordance with the provisions of the Declaration of Trust, the assets of the Issuer would not constitute property of the Issuer Trustee available for distribution to the creditors of the Issuer Trustee. An insolvency administrator appointed with respect to the Issuer Trustee may be able to recover from the property of the Issuer a portion of its costs that are incurred until a replacement for the Issuer Trustee, as trustee of the Issuer, is appointed or pending any proceeding in respect of the property of the Issuer. Such costs may exceed the compensation provided for in the Declaration of Trust.

The application to a Specified Consumer of Canadian Insolvency and Restructuring Laws and related provincial laws could also affect the ability to collect the Clean Energy Adjustments. Federal bankruptcy laws generally discharge bankrupt Specified Consumers of their obligation to pay Clean Energy Adjustment amounts.

Amounts that are on deposit from time to time in the Issuer Accounts for any Series may be invested in eligible investments. If insolvency proceedings were to be commenced by or against any entity with which an eligible investment is made or which is an issuer, obligor or guarantee of any eligible investment, the ability of the Indenture Trustee to enforce its rights in respect of any such eligible investment and the ability of the Issuer to make payments to holders of Notes in a timely manner may be adversely affected. In order to reduce this risk, the eligible investments must satisfy certain ratings criteria. See "■".

Bankruptcy-Related Risks Relating to the IESO

While the IESO is the servicer under the Master Transfer and Servicing Agreement, collections held by the IESO are to be held by the IESO in a segregated account. If the IESO fails to do so then, to the extent that funds are commingled and used for the benefit of the IESO prior to making required deposits, in the event of the liquidation, insolvency, receivership or administration of the IESO, the ability of the Issuer to enforce its rights to the collections in a timely manner may be adversely affected and collections that have been commingled may be unrecoverable. In the event of the insolvency of the IESO, the right of the Issuer under the Master Transfer and Servicing Agreement to appoint a replacement servicer may be stayed or prevented. Until Clean Energy Adjustments are remitted to the IESO by Electricity Vendors, amounts collected by the Electricity Vendors are to be held by Electricity Vendors in segregated accounts. If any Electricity Vendor fails to do so then, to the extent that funds are commingled and used for the bIn the event of the liquidation, insolvency, receivership or administration of the Manager, the ability of the Issuer to enforce certain of its other rights in and to the Investment Interest in a timely manner may also be adversely affected. Such affected rights may include the right to appoint a replacement Manager.

Bankruptcy-Related Risks Relating to OPG

Section 53.1 of the *Electricity Act, 1998*, as amended by the FHPA, provides that, regardless of whether a Financing Entity is or is not a subsidiary of OPG: (a) the assets and liabilities of the Financing Entity shall not form part of the assets and liabilities of OPG or any of its subsidiaries (excluding the Financing Entity if it is a subsidiary); and (b) the assets and liabilities of OPG or any of its subsidiaries (excluding the Financing Entity if it is a subsidiary) shall not form part of the assets and liabilities of the Financing Entity. However, in the event that either of OPG or the Issuer becomes insolvent, its insolvency would be subject to federal bankruptcy and insolvency legislation and the effect of these provisions of the *Electricity Act, 1998*, as amended by the FHPA, in such circumstances is untested.

In particular, in the event of the liquidation, insolvency, receivership or administration of OPG, the ability of the Issuer to enforce certain of its rights in and to the Investment Interest in a timely manner may be adversely affected. Such affected rights may include the right to appoint a replacement Manager. It is possible that the creditors of OPG may attempt to substantively consolidate the assets and liabilities of OPG and the Issuer. The Issuer and OPG have taken steps to minimize this risk. However, no assurance can be given that, in the case of the insolvency of OPG, a court would not order that the Issuer's assets and liabilities be substantively consolidated with those of OPG. Such substantive consolidation could cause payment of the claims of the beneficial owners of the Notes to be subject to substantial delay and to adjustment in timing and amount.

REPRESENTATIONS AND AGREEMENTS OF PURCHASERS

The distribution of the Notes in Canada is being made on a private placement basis. By purchasing Notes and accepting a purchase confirmation in respect thereof, a purchaser in Canada will be deemed to have represented to the Issuer and the Agents that, as at the date of such purchaser's purchase of Notes:

(a) none of the Issuer, the Agents or any person representing the Issuer or the Agents has made any representations to it (written or oral) with respect to the Issuer, any Offering or sale of the Notes, other than the information contained in this confidential shelf offering memorandum which has been delivered to it;

(b) it is resident in a province [or territory] of Canada (each an "**Offering Jurisdiction**") and is entitled under applicable securities laws of such Offering Jurisdiction to purchase the Notes without the benefit of a prospectus qualified under those securities laws and any act, solicitation, conduct or negotiation directly or indirectly in furtherance of such purchase and sale has occurred only in one of the provinces [or territories] of Canada;

(c) the purchaser has been provided the opportunity to receive a copy of the Master Trust Indenture and each of the Supplemental Indentures;

(d) the purchaser has reviewed and acknowledges the terms referred to below under the section entitled "Restrictions on Resale";

(e) it is basing its investment decision solely on this confidential shelf offering memorandum and not on any other information or statement concerning the Issuer or any Offering and it has not become aware of any advertisement in printed media of general and regular paid circulation (or other printed public media), radio, television or telecommunications or other form of advertisement (including electronic display) with respect to the distribution of the Notes;

(f) it has been independently advised as to restrictions with respect to trading in the Notes imposed by applicable securities laws in the jurisdiction in which it resides, confirms that no representation (written or oral) has been made to it by or on behalf of the Issuer or an Agent with respect thereto, acknowledges that it is aware of the characteristics of the Notes, the risks relating to an investment in the Notes and of the fact that it may not be able to resell the Notes except in accordance with limited exemptions under applicable securities legislation and regulatory policy and compliance with the other requirements of applicable law; and it agrees that any certificates representing the Notes will bear a legend indicating that the resale of such Notes is restricted; the purchaser further acknowledges that it has been advised to consult its own legal counsel in its jurisdiction of residence for full particulars of the resale restrictions applicable to it and has reviewed and acknowledges the terms referred to under the heading "Restrictions on Resale"; and the purchaser further acknowledges that if it resells the Notes in compliance with applicable law it will give notice to the subsequent transferee during the restricted period noted under the heading "Restrictions on Resale" of such restrictions;

(g) it acknowledges the risks relating to an investment in the Notes and it has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its prospective investment in the Notes, it and any accounts for which it is acting have the ability

to bear the economic risks of the prospective investment and can afford the complete loss of such investment and it acknowledges that it and any accounts for which it is acting may be required to bear the financial risks of this investment for an indefinite period of time;

(h) it acknowledges that: (i) no securities commission or similar regulatory authority has reviewed or passed on the merits of the Notes; and (ii) there is no government or other insurance covering the Notes;

(i) it acknowledges that no person has made any oral or written representation to it that any person will re-sell or re-purchase the Notes, or refund any part or all of the purchase price of the Notes, or that the Notes will be listed on any exchange or quoted on any quotation and trade reporting system, or that any application has been or will be made to list the Notes on any exchange or quote the notes on any quotation and trade reporting system, and no person has given any undertaking to such purchaser relating to the future value or price of the Notes;

(j) none of the funds being used to purchase the Notes are, to the best of the purchaser's knowledge, (i) proceeds obtained by or derived, directly or indirectly, as a result of illegal activities, or (ii) being tendered on behalf of a person or entity who has not been identified to the purchaser;

(k) the funds being used to purchase the Notes and advanced by or on behalf of the purchaser to the Agents do not represent proceeds of crime for the purposes of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada);

(l) the purchaser is responsible to obtain independent investment, legal and tax advice with respect to its purchase of the Notes and accordingly has had the opportunity to acquire an understanding of the transaction described in this confidential shelf offering memorandum and the meanings of all the terms contained herein relevant to such purchase for the purpose of giving acknowledgements, representations and agreements under this confidential shelf offering memorandum;

(m) it (i) is an "accredited investor" (as such term is defined in NI 45-106 and, in the case of a purchaser resident in Ontario, section 73.3(1) of the *Securities Act* (Ontario)) that is not an individual, unless such individual is also a "permitted client" (as such term is defined in NI 31-103); (ii) is either (A) purchasing the Notes as principal, (B) a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation of a jurisdiction of Canada (other than a trust company or trust corporation registered solely under the laws of the Province of Prince Edward Island) or a foreign jurisdiction, acting on behalf of a fully managed account managed by the trust company or trust corporation, as the case may be, or (C) a person acting on behalf of a fully managed account managed by that person, if that person is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or foreign jurisdiction; and (iii) was not created or used solely to purchase or hold securities as an accredited investor as described in paragraph (m) of the definition of "accredited investor" in NI 45-106;

(n) the purchaser has provided applicable certifications and/or other information or documentation to the Agents and the Issuer to evidence its status and criteria for compliance with the relevant category of "accredited investor," understands that the Agents and the Issuer may be required to verify that the purchaser satisfies such criteria, and that the purchaser may be required to provide additional information or documentation to the Agents and the Issuer to evidence such compliance;

(o) the purchaser, if resident in the Province of Québec, has agreed that all documents relating to such purchase be in English only, as more particularly described under the heading "Language of Documents". *L'acquéreur, s'il réside dans la Province de Québec, accepte que tous les documents liés à son acquisition soient en langue anglaise uniquement, tel qu'il est plus amplement décrit sous la rubrique «Langue des documents»*;

(p) it will execute, deliver and file such reports, undertakings and other documents relating to his, her or its purchase of the Notes as may be required by applicable securities laws, regulations and rules, or assist the Issuer and the Agents, as applicable, in obtaining and filing such reports, undertakings and other documents;

(q) it is not a U.S. person (as such term is defined in Regulation S under the U.S. Securities Act), none of the Notes are being or will be acquired, directly or indirectly, for the account or benefit of a U.S. person, the purchaser was not offered any of the Notes in the United States, the purchaser did not execute or deliver any agreement in connection herewith in the United States, and the purchaser is aware that the Notes have not been and will not be registered under the U.S. Securities Act or the securities laws of any State of the United States and that the Notes may not be offered or sold in the United States without registration under the U.S. Securities Act or except in compliance with the requirements of an exemption from registration;

(r) if the purchaser is acquiring any Notes as a fiduciary or agent for one or more investor accounts, it represents that it has sole investment discretion with respect to each such account and that it has full power to make the acknowledgements, representations and agreements contained herein on behalf of each such account;

(s) the offer and sale of the Notes is conditional upon the offer and sale being exempt from the prospectus filing requirements of applicable securities law;

(t) the purchaser acknowledges that the Issuer may be required to disclose to applicable securities regulatory authorities the identity of the purchaser and any person with a beneficial interest in the Notes;

(u) except for any rating reports that may have been issued by ■ and ■, no agency, governmental authority, regulatory body, stock exchange or other entity has made any finding or determination as to the merit for investment of, nor have any such agencies or governmental authorities, regulatory bodies, stock exchanges or other entities made any recommendation or endorsement with respect to the Notes;

(v) if the purchaser is:

(i) a corporation, it is duly incorporated and is validly subsisting under the laws of its jurisdiction of incorporation and has all requisite legal and corporate power and authority to purchase the Notes and to make such representations and agreements as contemplated herein and has obtained all necessary approvals in respect thereof;

(ii) a partnership, syndicate or other form of unincorporated organization, it has the necessary legal capacity and authority to purchase the Notes and to make such representations and agreements as contemplated herein and has obtained all necessary approvals in respect thereof; or

(iii) an individual, he or she is of the full age of majority, is a "permitted client" as such term is defined in NI 31-103 and is legally competent to purchase the Notes and to make such representations and agreements as contemplated herein;

(w) the purchaser is not an "insider" of the Issuer (within the meaning of Canadian securities laws) and is not registered or required to be registered as a dealer, adviser or otherwise under the securities laws of any province [or territory] of Canada (unless in either case it has specifically provided written advice to the contrary to the Issuer and to the Agents);

(x) it will, if requested by the Issuer or the Agent from whom the purchase confirmation is received, provide evidence of the basis of its above representations; and

(y) the Issuer, the Agents and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements and it agrees that if any of the acknowledgements, representations or agreements deemed to have been made by its purchase of the Notes are no longer accurate, it shall promptly notify the Issuer and the Agents for the applicable Offering of Notes.

In addition, each purchaser of Notes, by purchasing Notes and accepting a purchase confirmation in respect thereof, represents to the Issuer and the Agents for the applicable Offering of Notes that the purchaser:

(a) has been notified by the Issuer:

(i) that the Issuer is required to provide information pertaining to the purchaser of Notes required to be disclosed in Schedule 1 of Form 45-106F1 under NI 45-l06 (including its name, address, telephone number and the number and value of securities purchased), which Form 45-106F1 the Issuer is required to file under NI 45-106;

(ii) that such personal information will be delivered to the applicable Canadian securities regulatory authorities (the "**Commissions**") in accordance with NI 45-106;

(iii) that such personal information is being collected indirectly by the applicable Commission under the authority granted to it in securities legislation;

(iv) that such personal information is being collected for the purposes of the administration and enforcement of securities legislation; and

(v) that the public official in the provinces of Canada who can answer questions about the indirect collection of such personal information is set out in Schedule A of this confidential shelf offering memorandum, and

(b) has authorized the indirect collection of the personal information by the applicable Commission.

By purchasing Notes, the purchaser also acknowledges that its name and other specified information, including the number of Notes it has purchased, may be disclosed to other Canadian securities regulatory authorities and become available to the public in accordance with the requirements of applicable laws and consents to the disclosure of that information. Furthermore, by purchasing the Notes, the purchaser acknowledges that certain information as to its status as an "accredited investor" that the purchaser may have provided to any Agent involved in the trade may be required to be delivered by such Agent to the Issuer under the terms of an Agency Agreement between the Issuer and the Agents referred to under "Plan of Distribution". By purchasing the Notes, the purchaser consents to the disclosure of such information.

LANGUAGE OF DOCUMENTS

Upon receipt of this confidential shelf offering memorandum, each purchaser hereby confirms that it has expressly requested that all documents evidencing or relating in any way to the sale of the Notes described herein (including for greater certainty any purchase confirmation or any notice) be drawn up in the English language only. *En recevant le présent document, chaque acquéreur confirme par les présentes qu'il a expressément demandé que tous les documents qui attestent la vente des débentures décrites dans les présentes ou qui s'y rapportent de quelque manière que ce soit (y compris, plus particulièrement, une confirmation d'achat ou un avis) soient rédigés en langue anglais seulement.*

RESTRICTIONS ON RESALE

The distribution of the Notes in the provinces **[and territories]** of Canada is being made on a private placement basis and is therefore exempt from the requirement that the Issuer prepare and file a prospectus with the relevant Canadian securities regulatory authorities. Accordingly, any resale of the Notes must be made: (a) through an appropriately registered dealer or pursuant to an exemption from the dealer registration requirements of

applicable provincial **[and territorial]** securities laws; and (b) in accordance with, or pursuant to an exemption from, the prospectus requirements of applicable provincial **[and territorial]** securities laws. These resale restrictions may in some circumstances apply to resales made outside of Canada. Purchasers are advised to seek legal advice prior to any resale of the Notes.

Purchasers are advised that the Issuer does not intend to file a prospectus or similar document with any securities regulatory authority in Canada qualifying the resale of the Notes to the public in any province [or territory] of Canada in connection with any Offering.

Furthermore, each purchaser of Notes, by its purchase thereof, will be deemed to have represented, acknowledged or confirmed, as the case may be, to the Issuer and any dealer who is involved in the sale of the Notes to such purchaser that such purchaser understands that the Notes are subject to transfer and resale restrictions in Canada and that the certificates representing the Notes (or the relevant ownership statement under a direct registration system or other book-entry system) or other applicable document or notice (including this document) will bear or will notify the purchaser of the following legend:

> "EXCEPT IN THE PROVINCE OF MANITOBA, IN ACCORDANCE WITH NATIONAL INSTRUMENT 45-102 — RESALE OF SECURITIES, UNLESS OTHERWISE PERMITTED UNDER CANADIAN SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (I) THE DATE ON WHICH THE SECURITY IS ISSUED; AND (II) THE DATE THE ISSUER BECOMES A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY OF CANADA.
>
> IN THE PROVINCE OF MANITOBA, UNLESS OTHERWISE PERMITTED UNDER APPLICABLE CANADIAN SECURITIES LAWS OR WITH THE PRIOR WRITTEN CONSENT OF THE APPLICABLE REGULATORS, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS TWELVE MONTHS AND A DAY AFTER THE DATE THE PURCHASER ACQUIRED THE SECURITY."

The Issuer is not and does not intend to become a reporting issuer.

There is currently no secondary market for the Notes. There can be no assurance that a secondary market will develop or, if a secondary market does develop, that it will provide holders of such Series of Notes with liquidity for their investment or that it will continue for the life of such Notes. Accordingly, purchasers of the Notes may be required to bear the financial risk of investing in the Notes until the maturity date.

REPORTING REQUIREMENTS

The Issuer is not a reporting issuer or the equivalent thereof under the securities legislation in any jurisdiction. Accordingly, the Issuer is not subject to the continuous reporting and disclosure requirements prescribed by such securities legislation. Therefore, there is no requirement that the Issuer comply with such requirements, including, without limitation, the requirements to provide prompt notification of material changes by way of press releases, to formally file disclosure documents with applicable securities regulatory authorities or to prepare and file annual audited financial statements or quarterly unaudited financial statements. However, the Issuer will provide audited annual financial statements and unaudited quarterly financial statements in accordance with the terms of the Master Trust Indenture. See *"Description of Notes —Reporting Requirements of Notes"*.

STATUTORY RIGHTS OF ACTION

Securities legislation in certain of the provinces **[and territories]** of Canada provides purchasers, in addition to any other rights they may have at law, with a remedy for rescission or damages where an offering memorandum or any amendment to it, and in some cases, advertising and sales literature used in connection therewith, contains a misrepresentation. These remedies, or notice with respect thereto, must be exercised or

delivered, as the case may be, by the purchaser within the time limit prescribed, and are subject to the defences contained, in the applicable securities legislation. Purchasers should refer to the applicable provisions of the securities legislation of their province for the particulars of these rights or consult with a legal advisor. The following is a summary of the rights of rescission or rights to damages available to purchasers of the Notes.

Rights for Purchasers in Ontario

Section 5.2 of Ontario Securities Commission Rule 45-501 — *Ontario Prospectus and Registration Exemptions* provides that when an offering memorandum, such as this confidential shelf offering memorandum, is delivered to an investor to whom securities are distributed in reliance upon the "accredited investor" prospectus exemption in section 73.3 of the *Securities Act* (Ontario) or a predecessor exemption to section 73.3 of the *Securities Act* (Ontario) the right of action referred to in section 130.1 of the *Securities Act* (Ontario) ("**Section 130.1**") is applicable, unless the prospective purchaser is:

(a) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under section 473(1) of that Act;

(b) a bank, loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada;

(c) a Schedule III bank, meaning an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);

(d) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada); or

(e) a subsidiary of any person referred to in paragraphs (a), (b), (c) or (d), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by the directors of the subsidiary.

Section 130.1(1) provides such investors who purchase securities offered by an offering memorandum with a statutory right of action against the Issuer of securities for rescission or damages in the event that the offering memorandum and any amendment to it contains a "misrepresentation". The term "misrepresentation" is defined to mean an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make any statement not misleading in the light of the circumstances in which it was made. These remedies, or notice with respect to these remedies, must be exercised or delivered, as the case may be, by the purchaser within the time limits prescribed by applicable securities laws.

Where this confidential shelf offering memorandum is delivered to a prospective purchaser of Notes in connection with a trade made in reliance on section 73.3 of the *Securities Act* (Ontario), and this document contains a misrepresentation, the purchaser will have, without regard to whether the purchaser relied on the misrepresentation, a statutory right of action against the Issuer for damages or, while still the owner of Notes, for rescission, in which case, if the purchaser elects to exercise the right of rescission, the purchaser will have no right of action for damages, provided that the right of action for rescission will be exercisable by the purchaser only if the purchaser commences the action not more than 180 days after the date of the transaction that gave rise to the cause of action; or, in the case of any action other than an action for rescission, the earlier of: (i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action, or (ii) three years after the date of the transaction that gave rise to the cause of action.

The Issuer will not be liable for a misrepresentation if it proves that the purchaser purchased the Notes with knowledge of the misrepresentation.

In an action for damages, the Issuer will not be liable for all or any portion of the damages that the Issuer proves do not represent the depreciation in value of the Notes as a result of the misrepresentation relied upon.

In no case will the amount recoverable for the misrepresentation exceed the price at which the Notes were offered.

The liability of all persons and companies referred to above is joint and several. The Issuer, however, shall not be liable where it is not receiving any proceeds from the distribution of the securities being distributed and the misrepresentation was not based on information provided by the Issuer, unless the misrepresentation, (a) was based on information that was previously publicly disclosed by the Issuer, (b) was a misrepresentation at the time of its previous public disclosure and (c) was not subsequently publicly corrected or superseded by the Issuer prior to the completion of the distribution of the securities being distributed.

The foregoing statutory right of action for rescission or damages conferred is in addition to and without derogation from any other right the purchaser may have at law.

This summary is subject to the express provisions of the *Securities Act* (Ontario) and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions.

Rights for Purchasers in Saskatchewan

Section 138 of *The Securities Act, 1988* (Saskatchewan), as amended (the "**Saskatchewan Act**") provides that where an offering memorandum (such as this confidential shelf offering memorandum) or any amendment to it is sent or delivered to a purchaser and it contains a misrepresentation (as defined in the Saskatchewan Act), a purchaser who purchases a security covered by the offering memorandum or any amendment to it has, without regard to whether the purchaser relied on the misrepresentation, a right of action for rescission against the Issuer or a selling security holder on whose behalf the distribution is made or has a right of action for damages against:

(a) the Issuer or a selling security holder on whose behalf the distribution is made;

(b) every promoter and trustee of the Issuer or the selling security holder, as the case may be, at the time the offering memorandum or any amendment to it was sent or delivered;

(c) every person or company whose consent has been filed respecting the offering, but only with respect to reports, opinions or statements that have been made by them;

(d) every person who or company that, in addition to the persons or companies mentioned in (a) to (c) above, signed the offering memorandum or the amendment to the offering memorandum; and

(e) every person who or company that sells securities on behalf of the Issuer or selling security holder under the offering memorandum or amendment to the offering memorandum.

Such rights of rescission and damages are subject to certain limitations including the following:

(a) if the purchaser elects to exercise its right of rescission against the Issuer or selling security holder, it will have no right of action for damages against that party;

(b) in an action for damages, a defendant will not be liable for all or any portion of the damages that he, she or it proves do not represent the depreciation in value of the securities resulting from the misrepresentation relied on;

(c) no person or company, other than the Issuer or a selling security holder, will be liable for any part of the offering memorandum or any amendment to it not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, unless the person or company failed to conduct a reasonable investigation sufficient to provide reasonable grounds for a belief that there had been no misrepresentation or believed that there had been a misrepresentation;

(d) in no case will the amount recoverable exceed the price at which the securities were offered; and

(e) no person or company is liable in an action for rescission or damages if that person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation.

In addition, no person or company, other than the Issuer or selling security holder, will be liable if the person or company proves that:

(a) the offering memorandum or any amendment to it was sent or delivered without the person's or company's knowledge or consent and that, on becoming aware of it being sent or delivered, that person or company immediately gave reasonable general notice that it was so sent or delivered; or

(b) with respect to any part of the offering memorandum or any amendment to it purporting to be made on the authority of an expert, or purporting to be a copy of, or an extract from, a report, an opinion or a statement of an expert, that person or company had no reasonable grounds to believe and did not believe that: (i) there had been a misrepresentation, or (ii) the part of the offering memorandum or any amendment to it did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or an extract from, the report, opinion or statement of the expert.

Not all defences upon which the Issuer or others may rely are described herein. Please refer to the full text of the Saskatchewan Act for a complete listing.

The liability of all persons and companies referred to above is joint and several.

Similar rights of action for damages and rescission are provided in section 138.1 of the Saskatchewan Act in respect of a misrepresentation in advertising and sales literature disseminated in connection with an offering of securities.

Section 138.2 of the Saskatchewan Act also provides that, subject to certain limitations and defences, where an individual makes a verbal statement to a purchaser that contains a misrepresentation relating to the security purchased and the verbal statement is made either before or contemporaneously with the purchase of the security, the purchaser has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages against the individual who made the verbal statement.

Section 141(1) of the Saskatchewan Act provides a purchaser with the right to void the purchase agreement and to recover all money and other consideration paid by the purchaser for the securities if the securities are sold in contravention of the Saskatchewan Act, the regulations to the Saskatchewan Act or a decision of the Saskatchewan Financial Services Commission.

Section 141(2) of the Saskatchewan Act also provides a right of action for rescission or damages to a purchaser of securities to whom an offering memorandum or any amendment to it was not sent or delivered prior to or at the same time as the purchaser enters into an agreement to purchase the securities, as required by Section 80.1 of the Saskatchewan Act.

The rights of action for damages or rescission under the Saskatchewan Act are in addition to and do not derogate from any other right which a purchaser may have at law.

Section 147 of the Saskatchewan Act provides that no action will be commenced to enforce any of the foregoing rights more than:

(a) in the case of an action for rescission or cancellation, 180 days after the date of the transaction that gave rise to the cause of action; or

(b) in the case of any other action, other than an action for rescission or cancellation, the earlier of:

(i) one year after the plaintiff first had knowledge of the facts giving rise to the cause of action; or

(ii) six years after the date of the transaction that gave rise to the cause of action.

The Saskatchewan Act also provides that a purchaser who has received an amended offering memorandum delivered in accordance with subsection 80.1(3) of the Saskatchewan Act has a right to withdraw from the agreement to purchase the securities by delivering a notice to the person who or company that is selling the securities, indicating the purchaser's intention not to be bound by the purchase agreement, provided such notice is delivered by the purchaser within two business days of receiving the amended offering memorandum.

This summary is subject to the express provisions of the Saskatchewan Act and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions.

Rights for Purchasers in Nova Scotia

The right of action for rescission or damages described herein is conferred by section 138 of the *Securities Act* (Nova Scotia). Section 138 provides, in the relevant part, that in the event that this confidential shelf offering memorandum, together with any amendments hereto, or any advertising or sales literature (as defined in the *Securities Act* (Nova Scotia)) contains an untrue statement of material fact or omits to state a material fact that is required to be stated or that is necessary in order to make any statements contained herein or therein not misleading in light of the circumstances in which it was made (a "**misrepresentation**"), a purchaser of Notes is deemed to have relied upon such misrepresentation if it was a misrepresentation at the time of purchase and has, subject to certain limitations and defences, a statutory right of action for damages against the Issuer, its trustees, any person who signed this confidential shelf offering memorandum, any selling security holder and the directors of any such selling security holder at the date of this confidential shelf offering memorandum or, alternatively, while still the owner of the Notes, may elect instead to exercise a statutory right of rescission against the Issuer, in which case the purchaser will have no right of action for damages against any person listed above, including the Issuer, provided that, among other limitations:

(a) no action will be commenced to enforce the right of action for rescission or damages by a purchaser resident in Nova Scotia under Section 138 later than 120 days after the date payment was made for the Notes (or after the date on which initial payment was made for the Notes where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment);

(b) no person will be liable if it proves that the purchaser purchased the Notes with knowledge of the misrepresentation;

(c) no person or company, other than the Issuer, is liable under Section 138 if the person or company proves that:

(i) this confidential shelf offering memorandum, or any amendment hereto, was sent or delivered to the purchaser without the person's or company's knowledge or consent and that, on becoming aware of its delivery, the person or company gave reasonable general notice that it was delivered without the person's or company's knowledge or consent;

(ii) after delivery of this confidential shelf offering memorandum, or the amendment hereto, and before the purchase of the Notes by the purchaser, on becoming aware of any misrepresentation in this confidential shelf offering memorandum, or the amendment hereto, or any record incorporated or deemed incorporated by reference therein, the person or company withdrew the person's or company's consent to this confidential shelf offering memorandum, or amendment hereto, or such record, and gave reasonable general notice of the withdrawal and the reason for it; or

(iii) with respect to any part of this confidential shelf offering memorandum, or amendment hereto, or any record incorporated or deemed to be incorporated by reference therein, purporting to be made on the authority of an expert, or to be a copy of, or an extract from a report, an opinion or a statement of an expert, the person or company had no reasonable

grounds to believe and did not believe that there had been a misrepresentation, or that the relevant part of this confidential shelf offering memorandum, or amendment hereto, or such record, did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or extract from, the report, opinion or statement of the expert;

(d) no person or company, other than the Issuer, is liable under Section 138 with respect to any part of this confidential shelf offering memorandum, or amendment hereto, or any record incorporated or deemed incorporated by reference therein, not purporting to be made on the authority of an expert, or to be a copy of or an extract from, a report, opinion or statement of an expert, unless the person or company failed to conduct a reasonable investigation to provide reasonable grounds for a belief that there had been no misrepresentation, or believed that there had been a misrepresentation;

(e) in the case of an action for damages, no person will be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the Notes resulting from the misrepresentation; and

(f) in no case will the amount recoverable under Section 138 in any action exceed the price at which the Notes were offered to the purchaser.

The liability of all persons or companies referred to above is joint and several with respect to the same cause of action. A defendant who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person or company who is jointly and severally liable to make the same payment in the same cause of action unless, in all the circumstances of the case, the court is satisfied that it would not be just and equitable.

The foregoing statutory right of action for rescission or damages conferred by Section 138 of the Securities Act (Nova Scotia) is in addition to and without derogation from any other right or remedy available at law or otherwise to the purchaser. This summary is subject to the express provisions of the *Securities Act* (Nova Scotia) and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions may have at law.

Rights for Purchasers in New Brunswick

Section 2.1 of New Brunswick Securities Commission Rule 45-802 provides that the statutory rights of action in rescission or damages referred to in Section 150 of the *Securities Act* (New Brunswick) ("**Section 150**") apply to information relating to an offering memorandum, such as this confidential shelf offering memorandum, that is provided to a purchaser of securities in connection with a distribution made in reliance on the "accredited investor" prospectus exemption in Section 2.3 of NI 45-106. Section 150 provides investors who purchase securities offered for sale in reliance on an exemption from the prospectus requirements of the *Securities Act* (New Brunswick) with a statutory right of action for damages against (i) the Issuer; (ii) the selling security holder on whose behalf the distribution was made; (iii) every person who was a director of the Issuer as at the date of the offering memorandum; and (iv) every person who signed the offering memorandum in the event that an offering memorandum provided to such investor contains a "misrepresentation". Alternatively, if the investor purchased the securities from a person referred to in (i) or (ii) above, an investor may elect a right of rescission, in which case the investor shall have no right of action for damages. "Misrepresentation" means an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

Where this confidential shelf offering memorandum is delivered to a prospective purchaser of Notes in connection with a trade made in reliance on Section 2.3 of NI 45-106, and this document (including any documentation incorporated or deemed to be incorporated by reference) contains a misrepresentation, a purchaser who purchases the securities will be deemed to have relied on the misrepresentation and will have, subject to certain limitations and defences, a statutory right of action against the Issuer for damages or, while still the owner of Notes, for rescission. If the purchaser elects to exercise the right of rescission, the purchaser will have no right of action for damages. The right of action for rescission will be exercisable by the purchaser only if the purchaser commences the action against the defendant, not more than 180 days after the date of the transaction that gave rise to the cause of action; or, in the case of any action other than an action for rescission, the earlier of: (i) one year after the plaintiff

first had knowledge of the facts giving rise to the cause of action, or (ii) six years after the date of the transaction that gave rise to the cause of action.

No person other than the Issuer or the selling security holder is liable under Section 150 if the person proves that:

(a) the offering memorandum was delivered to the purchaser without the person's knowledge or consent and that, on becoming aware of its delivery, the person gave written notice to the Issuer that it was delivered without the person's knowledge or consent;

(b) upon becoming aware of a misrepresentation in the offering memorandum the person withdrew the person's consent to the offering memorandum and gave written notice to the Issuer of the withdrawal and the reason for the withdrawal; or

(c) with respect to any part of the offering memorandum purporting to be made on the authority of an expert or purporting to be a copy of, or an extract from, a report, opinion or statement of an expert, the person had no reasonable grounds to believe and did not believe there had been a misrepresentation or that the relevant part of the offering memorandum did not fairly represent the report, opinion or statement of the expert or was not a fair copy of, or extract from, the report, opinion or statement of the expert.

In addition, no person other than the Issuer or the selling security holder is liable under Section 150 with respect to any part of an offering memorandum not purporting to be made on the authority of an expert and not purporting to be a copy of, or an extract from, a report, opinion or statement of an expert unless (i) the person failed to conduct such reasonable investigations as to provide reasonable grounds for a belief that there had been no misrepresentation or (ii) the person believed that there had been misrepresentation.

The defendant will not be liable for a misrepresentation if it proves that the purchaser purchased the Notes with knowledge of the misrepresentation.

In an action for damages, the defendant will not be liable for all or any portion of the damages that the defendant proves do not represent the depreciation in value of the Notes as a result of the misrepresentation relied upon.

In no case will the amount recoverable for the misrepresentation exceed the price at which the Notes were offered.

The liability of all persons referred to above is joint and several.

The foregoing statutory right of action for rescission or damages conferred is in addition to and without derogation from any other right the purchaser may have at law.

This summary is subject to the express provisions of the Securities Act (New Brunswick) and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions.

Rights for Purchasers in Prince Edward Island

The right of action for rescission or damages described herein is conferred by Section 112 of the *Securities Act* (Prince Edward Island). Section 112 provides, that in the event that this confidential shelf offering memorandum contains a "misrepresentation", a purchaser who purchased the Notes during the period of distribution, without regard to whether the purchaser relied upon such misrepresentation, has a statutory right of action for damages against the Issuer, the selling security holder on whose behalf the distribution was made, every trustee of the Issuer as at the date of the confidential shelf offering memorandum, and every person who signed the confidential shelf offering memorandum. Alternatively, the purchaser while still the owner of the Notes may elect to exercise a statutory right of action for rescission against the Issuer. "Misrepresentation" means an untrue statement of material fact, or an omission to state a material fact that is required to be stated by the *Securities Act* (Prince Edward Island),

or an omission to state a material fact that needs to be stated so that a statement is not false or misleading in light of the circumstances in which it is made. Statutory rights of action for rescission or damages by a purchaser are subject to the following limitations:

(a) no action will be commenced to enforce the right of action for rescission by a purchaser, resident in Prince Edward Island, later than 180 days after the date of the transaction that gave rise to the cause of action;

(b) in the case of any action other than an action for rescission, the earlier of;

(i) 180 days after the purchaser first had knowledge of the facts given rise to the cause of action; or

(ii) three years after the date of the transaction giving rise to the cause of action;

(c) no person will be liable if the person proves that the purchaser purchased the security with knowledge of the misrepresentation;

(d) no person other than the Issuer will be liable if the person proves that

(i) the confidential shelf offering memorandum was sent to the purchaser without the person's knowledge or consent and that, on becoming aware of it being sent, the person had promptly given reasonable notice to the Issuer that it had been sent without the knowledge and consent of the person;

(ii) the person, on becoming aware of the misrepresentation in the confidential shelf offering memorandum, had withdrawn the person's consent to the confidential shelf offering memorandum and had given reasonable notice to the Issuer of the withdrawal and the reason for it; or

(iii) with respect to any part of the confidential shelf offering memorandum purporting to be made on the authority of an expert or purporting to be a copy of, or an extract from, a report, statement or opinion of an expert, the person had no reasonable grounds to believe, and did not believe that;

(A) there had been a misrepresentation; or

(B) the relevant part of the confidential shelf offering memorandum:

a. did not fairly represent the report, statement or opinion of the expert, or

b. was not a fair copy of, or an extract from, the report, statement, or opinion of the expert.

Not all defences upon which the Issuer or others may rely are described herein. Please refer to the full text of the *Securities Act* (Prince Edward Island) for a complete listing.

If the purchaser elects to exercise a right of action for rescission, the purchaser will have no right of action for damages.

In no case will the amount recoverable in any action exceed the price at which the Notes were offered to the purchaser.

In an action for damages, the defendant will not be liable for any damages that the defendant proves do not represent the depreciation in value of the Notes as a result of the misrepresentation.

The foregoing statutory right of action for rescission or damages conferred is in addition to and without derogation from any other right the purchaser may have at law.

This summary is subject to the express conditions of the *Securities Act* (Prince Edward Island) and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions.

Rights for Purchasers in Manitoba

Pursuant to section 141.1(1) of *The Securities Act* (Manitoba) (the "**Manitoba Act**"), where this confidential shelf offering memorandum, or any amendment to this confidential shelf offering memorandum, is sent or delivered to a purchaser in the Province of Manitoba and such document contains a misrepresentation, a purchaser who purchases Notes offered by this confidential shelf offering memorandum or any amendment to this confidential shelf offering memorandum is deemed to have relied on that misrepresentation, if it was a misrepresentation at the time of purchase and, subject to the defenses described in the Manitoba Act, has:

(a) a right of action for damages against:

(i) the Issuer;

(ii) each of its trustees at the date of this confidential shelf offering memorandum or any amendment to this confidential shelf offering memorandum; and

(iii) every person or company who signed this confidential shelf offering memorandum or any amendment to this confidential shelf offering memorandum; and

(b) a right of rescission against the Issuer;

provided that:

(c) no person or company is liable if the person or company proves that the purchaser purchased the Notes with knowledge of the misrepresentation;

(d) in an action for damages, the defendant is not liable for all or any portion of the damages that he, she or it proves do not represent the depreciation in value of the Notes resulting from the misrepresentation relied on; and

(e) in no case will the amount recovered exceed the price at which the Notes were offered to the public.

Where a purchaser elects to exercise a right of rescission against the Issuer, the purchaser will have no right of action for damages against the Issuer or against a person or company referred to in (a)(ii) or (iii) above.

No person or company other than the Issuer is liable:

(a) if the person or company proves that this confidential shelf offering memorandum or any amendment to this confidential shelf offering memorandum was sent without the person's or company's knowledge or consent and that, after becoming aware of its being sent, the person or company promptly gave reasonable notice to the Issuer that it was so sent;

(b) if the person or company proves that after becoming aware of any misrepresentation in this confidential shelf offering memorandum or any amendment to this confidential shelf offering memorandum, the person or company withdrew the person's or company's consent to it and gave reasonable notice to the Issuer of the person's or company's withdrawal and the reason for it;

(c) if the person or company proves that with respect to any part of this confidential shelf offering memorandum or of any amendment to this confidential shelf offering memorandum purporting to

be made on the authority of an expert or purporting to be a copy of or an extract from a report, opinion or statement of an expert, the person or company had no reasonable grounds to believe and did not believe that:

(i) there had been a misrepresentation; or

(ii) the relevant part of this confidential shelf offering memorandum or of the amendment to this confidential shelf offering memorandum:

(A) did not fairly represent the report, opinion or statement of the expert; or

(B) was not a fair copy of or extract from the report, opinion or statement of the expert; or

(d) with respect to any part of this confidential shelf offering memorandum or of the amendment to this confidential shelf offering memorandum not purporting to be made on an expert's authority and not purporting to be a copy of, or an extract from, the expert's report, opinion or statement, unless the person or company:

(i) did not conduct an investigation, sufficient to provide reasonable grounds for a belief that there had been no misrepresentation; or

(ii) believed that there had been a misrepresentation.

Pursuant to section 141.4 of the Manitoba Act, but subject to the other provisions thereof, no action shall be commenced to enforce any of the foregoing rights more than:

(a) in the case of an action for rescission, 180 days from the date of the transaction that gave rise to the cause of action, or

(b) in the case of an action for damages, the earlier of:

(i) 180 days after the date that the plaintiff first had knowledge of the facts giving rise to the cause of action, or

(ii) two years after the date of the transaction that gave rise to the cause of action.

In an action for damages, the Issuer will not be liable for all or any part of the damages that the Issuer proves do not represent the depreciation in value of the Notes as a result of the misrepresentation relied upon.

The rights of action for rescission or damages under the Manitoba Act are in addition to and do not derogate from any other right that the purchaser may have at law.

This summary is subject to the express provisions of the Manitoba Act and the regulations and rules made under it, and prospective investors should refer to the complete text of those provisions.

Rights for purchasers in Newfoundland and Labrador

In accordance with section 130.1 of the *Securities Act* (Newfoundland and Labrador, hereinafter the "**NL Act**"), in the event this confidential shelf offering memorandum contains a misrepresentation, a purchaser who purchases Notes shall be deemed to have relied upon such misrepresentation if it was a misrepresentation at the time of purchase, in which event the purchaser has, subject to the defences and limitations set out in the NL Act: (a) a right of action for damages against the Issuer and, every trustee of the Issuer at the date of this confidential shelf offering memorandum and every person or company who has signed this confidential shelf offering memorandum; and (b) a right of rescission against the Issuer. Where a right of rescission is exercised, a purchaser shall have no right of action for damages against any other person or company.

For the purposes of the NL Act "misrepresentation" means: (a) an untrue statement of material fact, or (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

A person or company is not liable under section 130.1 of the NL Act: (a) if the person or company proves the purchaser had knowledge of the misrepresentation; or (b) in an action for damages, for all or any portion of the damages that the person or company proves do not represent the depreciation in value of the security as a result of the misrepresentation. Additionally, in an action for damages, the amount recoverable under the right of action shall not exceed the purchase price at which the security was offered.

In addition no person or company, other than the Issuer, is liable under section 130.1 of the NL Act if:

(a) the person or company proves that this confidential shelf offering memorandum was sent to the purchaser without the person's or company's knowledge or consent and that, on becoming aware of its being sent, the person or company promptly gave reasonable notice to the Issuer that it was sent without the person's or company's knowledge or consent;

(b) the person or company proves that on becoming aware of any misrepresentation in this confidential shelf offering memorandum, the person or company withdrew the person's or company's consent to this confidential shelf offering memorandum, and gave reasonable notice to the Issuer of the withdrawal and the reason for it;

(c) with respect to any part of this confidential shelf offering memorandum purporting to be made on the authority of an expert (or purporting to be a copy of or an extract from a report, opinion or statement of an expert), the person or company proves they had no reasonable grounds to believe and did not believe that: (i) there had been a misrepresentation; or (ii) the relevant part of this confidential shelf offering memorandum did not fairly represent the report, opinion or statement of the expert, or was not a fair copy of, or an extract from, the report, opinion or statement of the expert; or

(d) with respect to any part of this confidential shelf offering memorandum not purporting to be made on the authority of an expert (and not purporting to be a copy of or an extract from a report, opinion or statement of an expert), unless the person or company: (i) did not conduct an investigation sufficient to provide reasonable grounds for a belief that there had been no misrepresentation; (ii) or believed there had been a misrepresentation.

If a misrepresentation is contained in a record incorporated by reference in, or deemed incorporated into this confidential shelf offering memorandum, the misrepresentation is deemed to be contained in this confidential shelf offering memorandum.

The foregoing statutory right of action for rescission or damages conferred is in addition to and without derogation from any other right the purchaser may have at law. The liability of all persons and companies referred to above is joint and several.

Pursuant to section 138 of the NL Act, no action shall be commenced to enforce the rights conferred by section 130.1 thereof unless commenced:

(a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or

(b) in the case of an action, other than an action for rescission, the earlier of:

(i) 180 days after the plaintiff first had knowledge of the facts giving rise to the cause of action; or

(ii) three years after the date of the transaction that gave rise to the cause of action.

Rights for Purchasers in Alberta, British Columbia, and Québec

By purchasing Notes hereunder, purchasers in Alberta, British Columbia and Québec not entitled to the statutory rights described above, in consideration of their purchase of Notes and upon accepting a purchase confirmation in respect thereof, are hereby granted a contractual right of action for damages or rescission that is the same as the statutory right of action, if any, provided to residents of Ontario who purchase Notes.

General

The foregoing summaries are subject to the express provisions of the applicable securities law of each jurisdiction, and the regulations, rules and policy statements thereunder and reference is made thereto for the complete text of such provisions.

The rights of action described in this confidential shelf offering memorandum are in addition to and without derogation from any other right or remedy that the purchaser may have at law.

INDENTURE TRUSTEE

The Indenture Trustee, BNY Trust Company of Canada, will be the registrar for the Notes, and the register for the transfer of Notes will be kept at its principal office in Toronto, Ontario.

LEGAL MATTERS

Certain Canadian legal matters in connection with the offering of Notes will be passed upon by Torys LLP on behalf of the Issuer and by Osler, Hoskin & Harcourt LLP on behalf of the Agents.

GLOSSARY

The following glossary contains definitions of certain terms that are used throughout this confidential shelf offering memorandum.

"**Adverse Effect**" means ■.

"**Agency Agreement**" has the meaning set out under *"Plan of Distribution"*.

"**Agents**" means the agents designated by the Issuer from time to time and identified in the Term Sheet applicable to such Offering to sell the Notes as described under *"Plan of Distribution"*.

"**Available Collections**" means ■.

"**capital reserve account**" has the meaning set out under *"Capital Markets Platform — Issuer Accounts — Capital Reserve Account"*.

"**CDS**" means CDS Clearing and Depository Services Inc.

"**Change of Law Protection Agreement**" means the change of law protection agreement to be dated on or about ■, 2017 between the Issuer, the Indenture Trustee and Her Majesty in Right of the Province of Ontario, as represented by the Minister of Energy and the Minister of Finance.

"**Clean Energy Adjustment**" has the meaning set out under *"Ontario's Fair Hydro Plan — Clean Energy Adjustment"*.

"**Clean Energy Benefits**" means the value of the benefits determined to be derived by or accruing to Specified Consumers as a result of the Clean Energy Initiative, including as a result of Clean Energy Costs.

"**Clean Energy Costs**" means the value of the costs allocated to Specified Consumers as a result of the Clean Energy Initiative, including as a result of past, present and expected costs incurred in respect of

(a) the amounts to be paid or reflected by the IESO in adjustments made under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts or amounts for

(i) renewable energy generation or capacity;

(ii) conservation and demand management;

(iii) energy storage;

(iv) energy efficiency; and

(v) natural gas generation and capacity, excluding contracts relating to amounts payable by the IESO under section 78.2 of the *Ontario Energy Board Act, 1998* and excluding such other contracts as may be prescribed;

(b) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*; and

(c) such other costs or estimated costs as may be prescribed by the Regulations.

"**Clean Energy Initiative**" means the policies of the Ontario government related to

(a) eliminating coal generation and fostering the growth of and investment in clean, modern and reliable energy sources and technologies;

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies;

(c) promoting conservation, demand management and energy efficiency; and

(d) investing in energy infrastructure to ensure a clean, modern and reliable system.

"**Clearstream, Luxembourg**" means Clearstream Banking, société anonyme.

"**collateral**" has the meaning set out under *"Capital Markets Platform —Security"*.

"**collection account**" has the meaning set out under *"Capital Markets Platform — Issuer Accounts — Collection Account"*.

"**Commission**" has the meaning set out under *"Representations and Agreements of Purchasers"*.

"**Confidential Information**" has the meaning set out under *"Confidentiality"*.

"**Co-Owner Agreement**" has the meaning set out in the Master Trust Indenture.

"**Credit Enhancement Agreement**" has the meaning set out in the Master Trust Indenture.

"**DBRS**" means DBRS Limited and its successors.

"**Debtholder**" means ■.

"**Declaration of Trust**" has the meaning set out under *"The Issuer"*.

"**depository**" has the meaning set out under *"Depository Services"*.

"**Derivative Agreement**" has the meaning set out in the Master Trust Indenture.

"**DTC**" means The Depositary Trust Company.

"**Electricity Vendor**" means

(a) a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a "distribution system" within the meaning of that Act;

(b) a person licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity;

(c) the IESO in circumstances where it directly invoices a Specified Consumer for electricity used in Ontario; or

(d) such other person as may be prescribed by the Regulations.

"**Euroclear**" means Euroclear Bank S.A./N.V., as operator of the Euroclear System.

"**Event of Default**" means ■.

"**Extraordinary Resolution**" means ■.

"**Fair Adjustment**" has the meaning set out under *"Ontario's Fair Hydro Plan —Background"*.

"**Fair Allocation Amount**" has the meaning set out under *"Ontario's Fair Hydro Plan —Fair Allocation Amount and Financing Plan"*.

"**FHPA**" means the *Ontario Fair Hydro Plan Act, 2017*.

"**Finance Amount**" has the meaning set out under *"Ontario's Fair Hydro Plan —Clean Energy Adjustment"*.

"**finance reserve account**" has the meaning set out under *"Capital Markets Platform — Issuer Accounts — Finance Reserve Account"*.

"**Financial Services Manager**" means OPG, in its capacity as financial services manager appointed under the FHPA to perform the duties assigned to it thereunder.

"**Financing Entity**" has the meaning set out under *"Ontario's Fair Hydro Plan —Background"*.

"**Financing Plan**" means the written plan entitled "Financing Plan" prepared by the Financial Services Manager as required under the FHPA to be used by the Financial Services Manager to evaluate whether Funding Obligations should be incurred for the purposes of acquiring Investment Interests, including any amendments thereto.

"**Funding Obligation Agreement**" means ■.

"**Funding Obligation**" has the meaning set out under *"Ontario's Fair Hydro Plan —Background"*.

"**Funding Rebates**" means ■.

"**Global Adjustment**" means ■.

"**IESO**" means the Independent Electricity System Operator.

"**Indenture Trustee**" means BNY Trust Company of Canada and its successors.

"**Indenture**" means the Master Trust Indenture, as supplemented by any Supplemental Indenture.

"**Internal Revenue Code**" means ■.

"**Investment Interest**" has the meaning set out under *"Ontario's Fair Hydro Plan —Investment Interest"*.

"**Investor Presentation**" has the meaning set out on the face page of this confidential shelf offering memorandum.

"**Issuer Account**" means ■.

"**Issuer Trustee**" means Computershare Trust Company of Canada.

"**Issuer**" means Fair Hydro Trust, a special purpose trust established under the laws of the Province of Ontario.

"**Liquidity Agreement**" has the meaning set out in the Master Trust Indenture.

"**Loan Agreement**" has the meaning set out in the Master Trust Indenture.

"**Management Agreement**" has the meaning set out under *"The Manager"*.

"**Manager**" means OPG, as manager of the Issuer appointed under the Management Agreement.

"**Manitoba Act**" means *The Securities Act* (Manitoba).

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement to be dated the date of the closing of the first Offering between the Issuer, the Indenture Trustee and the IESO.

"**Master Trust Indenture**" means the master trust indenture to be dated the date of the closing of the first Offering, between the Issuer, as issuer, and the Indenture Trustee.

"**Moody's**" means Moody's Investors Service, Inc. and its successors.

"**NERC**" means the North American Electric Reliability Corporation.

"**NI 31-103**" means National Instrument 31-103 — *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

"**NI 45-106**" means National Instrument 45-106 — *Prospectus Exemptions*.

"**NL Act**" means the *Securities Act* (Newfoundland and Labrador).

"**Note Purchase Agreement**" has the meaning set out in the Master Trust Indenture.

"**Noteholders**" means ■.

"**Notes**" has the meaning set out on the face page of this confidential shelf offering memorandum.

"**NPCC**" means Northeast Power Coordinating Council.

"**OEB**" means the Ontario Energy Board.

"**Offering Jurisdiction**" means each of the provinces [and territories] of Canada.

"**Offering**" means an offering of Notes pursuant to this confidential shelf offering memorandum and the related Term Sheet as described under *"Plan of Distribution"*.

"**OPG**" means Ontario Power Generation Inc.

"**Participants**" has the meaning set out under *"Depository Services"*.

"**Paying Agent**" means ■.

"**Payment Date**" means ■.

"**Program Agreements**" means the Master Trust Indenture, each Supplemental Indenture, the Declaration of Trust, the Management Agreement, the Master Transfer and Servicing Agreement, each Transfer Notice, any Co-Owner Agreements, the Change of Law Protection Agreement, the Notes, any Derivative Agreements, Credit Enhancement Agreements, Liquidity Agreements, Loan Agreements, Underwriting Agreements, Agency Agreements and Note Purchase Agreements in effect at such time and all other documents and certificates delivered in connection therewith.

"**Protection Event**" has the meaning set out under *"Change of Law Protection Agreement"*.

"**Province**" has the meaning set out under *"Change of Law Protection Agreement"*.

"**Rating Agency Condition**" has the meaning set out under *"Rating Agency Condition"*.

"**Rating Agency**" means ■.

"**Reference Period**" means

(a) the period beginning on July 1, 2017 and ending on October 31, 2017; and

(b) during the period beginning on November 1, 2017 and ending on either April 30, 2047 or such later day as may be prescribed by the Regulations

(i) every six-month period following the period mentioned in (a);

(ii) any period shorter than six months, as may be prescribed by the Regulations.

"**Regulations**" means the regulations promulgated under the FHPA.

"**Regulatory Asset**" has the meaning set out under *"Ontario's Fair Hydro Plan —Regulatory Asset"*.

"**Reimbursable Issuer Expenditures**" has the meaning set out under *"The Manager"*.

"**Saskatchewan Act**" means *The Securities Act, 1988* (Saskatchewan).

"**Section 130.1**" means section 130.1 of the *Securities Act* (Ontario).

"**Section 150**" means section 150 of the *Securities Act* (New Brunswick).

"**Senior Funding Obligation**" means ■.

"**Servicer**" means the IESO, as servicer under the Master Transfer and Servicing Agreement.

"**Specified Claims**" has the meaning set out under *"Change of Law Protection Agreement"*.

"**Specified Consumer**" has the meaning set out under *"Ontario's Fair Hydro Plan —Background"*.

"**Specified Creditors**" has the meaning set out in the Master Trust Indenture.

"**Supplemental Indenture**" means a supplemental indenture to the Master Trust Indenture between the Issuer and the Indenture Trustee.

"**supplemental reserve account**" has the meaning set out under *"Capital Markets Platform —Issuer Accounts — Supplemental Reserve Account"*.

"**Term Sheet**" has the meaning set out on the face page of this confidential shelf offering memorandum.

"**Terms Document**" has the meaning set out under *"Description of Notes —General"*.

"**transaction**" has the meaning set out under *"Capital Markets Platform — Covenants of the Issuer —Negative Covenants —Consolidation; Sale of Assets"*.

"**Transfer Notice**" has the meaning set out in the Master Trust Indenture.

"**True-up Amount**" has the meaning set out under *"Ontario's Fair Hydro Plan —True-up Amount"*.

"**Unitholders**" means ■, a wholly-owned subsidiary of OPG, and the Indenture Trustee.

SCHEDULE A – CANADIAN PROVINCIAL [AND TERRITORIAL] SECURITIES REGULATORY AUTHORITIES

Alberta Securities Commission
Suite 600, 250 – 5th Street SW
Calgary, Alberta T2P 0R4
Telephone: (403) 297-6454
Toll free in Canada: 1-877-355-0585
Facsimile: (403) 297-2082
Public official contact regarding indirect collection of information: FOIP Coordinator

British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Inquiries: (604) 899-6854
Toll free in Canada: 1-800-373-6393
Facsimile: (604) 899-6581
Email: FOI-privacy@bcsc.bc.ca
Public official contact regarding indirect collection of information: FOI Inquiries

The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5
Telephone: (204) 945-2561
Toll free in Manitoba 1-800-655-5244
Facsimile: (204) 945-0330
Public official contact regarding indirect collection of information: Director

Financial and Consumer Services Commission (New Brunswick)
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2
Telephone: (506) 658-3060
Toll free in Canada: 1-866-933-2222
Facsimile: (506) 658-3059
Email: info@fcnb.ca
Public official contact regarding indirect collection of information: Chief Executive Officer and Privacy Officer

Government of Newfoundland and Labrador
Financial Services Regulation Division
P.O. Box 8700
Confederation Building
2nd Floor, West Block
Prince Philip Drive
St. John's, Newfoundland and Labrador A1B 4J6
Attention: Director of Securities
Telephone: (709) 729-4189
Facsimile: (709) 729-6187
Public official contact regarding indirect collection of information: Superintendent of Securities

[Government of the Northwest Territories
Office of the Superintendent of Securities
P.O. Box 1320
Yellowknife, Northwest Territories X1A 2L9
Telephone: (867) 767-9305
Facsimile: (867) 873-0243
Public official contact regarding indirect collection of information: Superintendent of Securities]

Nova Scotia Securities Commission
Suite 400, 5251 Duke Street
Duke Tower
P.O. Box 458
Halifax, Nova Scotia B3J 2P8
Telephone: (902) 424-7768
Facsimile: (902) 424-4625
Public official contact regarding indirect collection of information: Executive Director

[Government of Nunavut
Department of Justice
Legal Registries Division
P.O. Box 1000, Station 570
1st Floor, Brown Building
Iqaluit, Nunavut X0A 0H0
Telephone: (867) 975-6590
Facsimile: (867) 975-6594
Public official contact regarding indirect collection of information: Superintendent of Securities]

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8
Telephone: (416) 593-8314
Toll free in Canada: 1-877-785-1555
Facsimile: (416) 593-8122
Email: exemptmarketfilings@osc.gov.on.ca
Public official contact regarding indirect collection of information: Inquiries Officer

Prince Edward Island Securities Office
95 Rochford Street, 4th Floor Shaw Building
P.O. Box 2000
Charlottetown, Prince Edward Island C1A 7N8
Telephone: (902) 368-4569
Facsimile: (902) 368-5283
Public official contact regarding indirect collection of information: Superintendent of Securities

Autorité des marchés financiers
800, Square Victoria, 22e étage
C.P. 246, Tour de la Bourse
Montréal, Québec H4Z 1G3
Telephone: (514) 395-0337 or 1-877-525-0337
Facsimile: (514) 873-6155 (For filing purposes only)
Facsimile: (514) 864-6381 (For privacy requests only)
Email: financementdessocietes@lautorite.qc.ca (For corporate finance issuers)
Public official contact regarding indirect collection of information: Corporate Secretary

Financial and Consumer Affairs Authority of Saskatchewan
Suite 601 - 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2
Telephone: (306) 787-5842
Facsimile: (306) 787-5899
Public official contact regarding indirect collection of information: Director

[Office of the Superintendent of Securities
Government of Yukon
Department of Community Services
307 Black Street, 1st Floor
P.O. Box 2703, C-6
Whitehorse, Yukon Y1A 2C6
Telephone: (867) 667-5466
Facsimile: (867) 393-6251
Email: securities@gov.yk.ca
Public official contact regarding indirect collection of information: Superintendent of Securities]

EXHIBIT 1 – INVESTOR PRESENTATION

(See attached.)

ONTARIO POWER GENERATION INC.,
in its capacity as FSM

PROCESS CERTIFICATE

Certificate of the CFO and Treasurer pursuant to section 3.01 of the Change of Law Process Agreement

will be

TO: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

RE: ~~C$800,000,000 aggregate principal amount of~~ Floating Rate Variable Funding Senior Notes, Series 2017-1 (the "**Series 2017-1 Senior Notes**") **in the aggregate maximum principal amount of C$800,000,000, of which $601,290,000 has been drawn as of December 21, 2017**

AND RE: ~~C$611,764,705.88 principal amount of~~ Floating Rate Variable Funding Subordinated Notes, Series 2017-1 (the "**Series 2017-1 Subordinated Notes**") **in the maximum principal amount of C$611,764,705.88, of which $459,810,000 has been drawn as of December 21, 2017**

AND RE: ~~C$156,862,745.10 principal amount~~ Floating Rate Variable Funding Junior Subordinated Notes, Series 2017-1 **in the maximum principal amount of C$156,862,745.10, of which $117,900,000 has been drawn as of December 21, 2017** (the "**Series 2017-1 Junior Subordinated Notes**" and, together with the Series 2017-1 Senior Notes and the Series 2017-1 Subordinated Notes, the "**Funding Obligations**")

AND RE: Fee letter in respect of the Series 2017-1 Senior Notes among Ontario Power Generation Inc., in its capacity as FSM, Royal Bank of Canada, as Administrative Agent, certain CP Conduit Purchasers, the Non-Conduit Purchaser, and certain Group Banks, each as defined therein (the "**Fee Letter**", the terms of which are incorporated by reference in the Reference Documentation relating to the Series 2017-1 Senior Notes)

Reference is made to the Change of Law Process Agreement dated December 21, 2017 among the Province of Ontario and Ontario Power Generation Inc. (the "**Change of Law Process Agreement**"). Capitalized terms used and not defined herein shall have the meanings ascribed to such terms in the Change of Law Process Agreement.

Each of the undersigned, being the Chief Financial Officer and Treasurer of OPG acting in its capacity as FSM and holding the offices set forth under their names and signatures below, pursuant to and accordance with clause 3.01 of the Change of Law Process Agreement, hereby certifies for and on behalf of OPG, in its capacity as Financial Services Manager, and not in such officer's personal capacity and intending that this certificate may be relied on by the addressees hereof without independent inquiry, that:

1. I have read and understand the provisions of the Change of Law Process Agreement and all other documents and materials necessary to enable me to deliver this certificate.
2. The material terms of the Series 2017-1 Senior Notes are set forth in Schedule A.
3. The material terms of the Series 2017-1 Subordinated Notes are set forth in Schedule B.
4. The material terms of the Series 2017-1 Junior Subordinated Notes are set forth in Schedule C.
5. The material terms of the Fee Letter are set forth in Schedule D.
6. The Funding Obligations:
   (a) will arise under terms and conditions that are Substantially in the Form of the Reference Documentation applicable thereto;
   (b) in my opinion, are reasonably incurred or effected in compliance with the Act, the General Regulation, any other enactments related thereto and the Financing Plan;
   (c) are of a type and are on terms that a reasonably prudent financial services manager would incur in similar circumstances; and
   (d) reflect, in all material respects, arm's length terms and conditions.
7. No Disclosure Document was used in connection with the offering and sale of the Funding Obligations.
8. Any disclosure made in respect of any of the Funding Obligations (including any Disclosure Document, press release or other written communication prepared for dissemination to third parties in relation to any of the Funding Obligations) that refers to or describes the terms, effect or adherence of or to the Change of Law Process Agreement or the Change of Law Protection Agreement has been made available to the Province prior to use or dissemination, other than where such disclosure was substantially the same as a disclosure previously made.
9. No Breach Event has occurred on or prior to the date hereof, unless such Breach Event has been waived by the Province in writing.
10. At the time the Funding Obligations are incurred, the maximum aggregate payment amounts due or becoming due in the future in respect of Repayments under the Funding Obligations, together with all other outstanding amounts due or becoming due in the future in respect of Repayments under all Approved Obligations, do not exceed the Protection Agreement Maximum applicable on the date hereof.

[Remainder of page intentionally left blank.]

DATED the ____ day of December, 2017.

_____

Name:
Title:

_____

Name:
Title:

SCHEDULE A

SERIES 2017-1 SENIOR NOTES TERM SHEET	
Type of Credit:	**Revolving**
Principal Amount	Aggregate maximum principal amount of C$800,000,000 **available under the Series 2017-1 Senior Notes, of which $601,290,000 has been drawn as of December 21, 2017**
Interest Rate	Variable rate based on ABCP cost of funds or CDOR, as applicable, plus the Applicable Margin (as defined on Schedule D)
Interest Payments	**Interest is due on the 15th of each month, beginning in January 2018**
Discount	N/A
Fees	See Schedule D
Term to Maturity	Initial 2 year term
Amortization	N/A
Redemption	N/A
Extension	May only be extended with the prior written consent of the ~~Administrative Agent, each Non-Conduit Purchaser~~ and each Funding Agent, and satisfaction of the Rating Agency Condition (each as defined in the Supplemental Indenture creating the Series 2017-1 ~~Senior Notes~~)
Coupon Payments	N/A

SCHEDULE B

SERIES 2017-1 SUBORDINATED NOTES TERM SHEET	
Type of Credit:	**Revolving**
Principal Amount	Maximum principal amount of C$611,764,705.88 **available under the Series 2017-1 Subordinated Notes, of which $459,810,000 has been drawn as of December 21, 2017**
Interest Rate	For any payment date, the amount of interest and fees payable to the holders of the Series 2017-1 Senior Notes on such date, expressed as a rate per annum on the weighted average outstanding principal amount of the Series 2017-1 Senior Notes from the preceding payment date to such payment date, plus 0.10% per annum
Interest Payments	**Interest is due on the 15th of each month, beginning in January 2018**
Discount	N/A
Fees	N/A
Term to Maturity	Initial 2 year term
Amortization	N/A
Redemption	N/A
Extension	Automatic extension upon extension of Series 2017-1 Senior Notes
Coupon Payments	N/A

SCHEDULE C

SERIES 2017-1 JUNIOR SUBORDINATED NOTES TERM SHEET	
Type of Credit:	**Revolving**
Principal Amount	Maximum principal amount of C$156,862,745.10 **available under the Series 2017-1 Junior Subordinated Notes, of which $117,900,000 has been drawn as of December 21, 2017**
Interest Rate	For any payment date, the amount of interest and fees payable to the holders of the Series 2017-1 Senior Notes on such date, expressed as a rate per annum on the weighted average outstanding principal amount of the Series 2017-1 Senior Notes from the preceding payment date to such payment date, plus 0.10% per annum
Interest Payments	**Interest is due on the 15th of each month, beginning in January 2018**
Discount	N/A
Fees	N/A
Term to Maturity	Initial 2 year term
Amortization	N/A
Redemption	N/A
Extension	Automatic extension upon extension of Series 2017-1 Senior Notes
Coupon Payments	N/A

SCHEDULE D

FEE LETTER TERMS	
Upfront Fee:	An "Upfront Fee" of 20 bps per annum
Applicable Margin:	An "Applicable Margin" of 90 basis points (0.90%); provided that (i) for the period commencing on December 21, 2019 and ending on the payment date in May, 2021 (the "**Initial Step-up Period**"), the Applicable Margin shall be equal to 290 basis points (2.90%) (the "**Step-up Applicable Margin**"), and (ii) with respect to each of the six- payment date periods following the Initial Step-up Period (from the day following the payment date in May to the payment date in November or from the day following the payment date in November to the payment date in May, as applicable), the Applicable Margin shall continue to increase by an additional 50 basis points (0.50%) over the Applicable Margin for the Initial Step-up Period or immediately preceding six- payment date period, as applicable, subject to a maximum Applicable Margin of 590 basis points (5.90%)
Commitment Fees:	The "Commitment Fee Rate" is based on weighted average monthly utilization and will be payable monthly in arrears on each interest payment date as follows with respect to the preceding interest period based on the rate below and the unutilized amount of the commitment: ☐ A daily rate of 40 bps per annum if utilization on such day is >66.67% ☐ A daily rate of 55 bps per annum if utilization on such day is >33.33% and </= 66.67% ☐ A daily rate of 70 bps per annum if utilization on such day </= 33.33%
Other Fees/Expenses:	Reasonable Fees incurred for any professional or other services which include, but are not limited to, reasonable fees of legal counsel, rating agency fees, accountant fees, and any reasonable out-of-pocket expenses (including without limitation, travel, meals etc.), so long as each such reimbursement complies with Ontario Power Generation Inc.'s Standard Form Business Expense Schedule, as amended from time to time.

Document comparison by Workshare Compare on December-20-17 1:42:11 PM

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Document 2 ID	interwovenSite://INVENTORYS1/TorysAtWork/24546313/5
Description	#24546313v5<TorysAtWork> - Process Certificate of the CFO and Treasurer of OPG re section 3.01 of the CLPA
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Insertion	
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Total changes	39

FALL FISCAL PLANNING

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

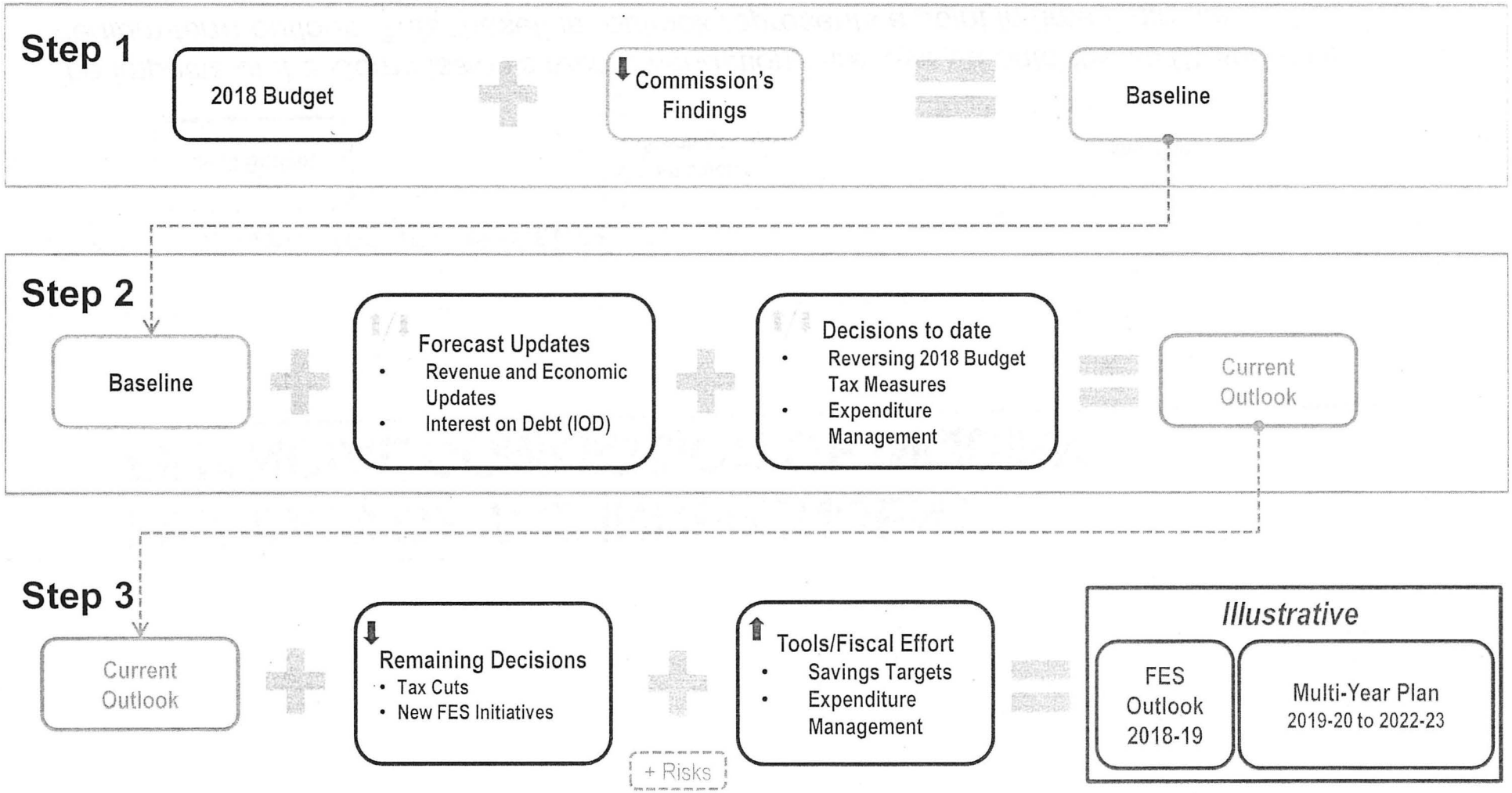
TBS

Draft, September 28, 2018 7:30 PM

Purpose

- Initiate fall fiscal planning by providing an overview of Ontario's fiscal position and updating for key inputs:
  - ***Establish a baseline*** fiscal outlook that is informed by the findings of the Financial Commission of Inquiry
  - Adjust for ***information updates and early decisions*** taken by government to present the ***current outlook***
  - Present illustrative scenarios to foreshadow the ***impacts of decisions*** required to determine the ***Fall Economic Statement and Multi-Year Planning Outlook***
- Outline principles and key decisions that will guide fiscal planning and inform the Fall Economic Statement and the multi-year planning process.

Steps to Updating the Fiscal Outlook



⬆ Potential fiscal benefit (improvement)
⬇ Potential fiscal pressure (deterioration)
⬆/⬇ Potential fiscal benefit/pressure direction unclear (improvement or deterioration)

FINDINGS OF THE INDEPENDENT FINANCIAL COMMISSION OF INQUIRY

Step 1 – Determine the Baseline

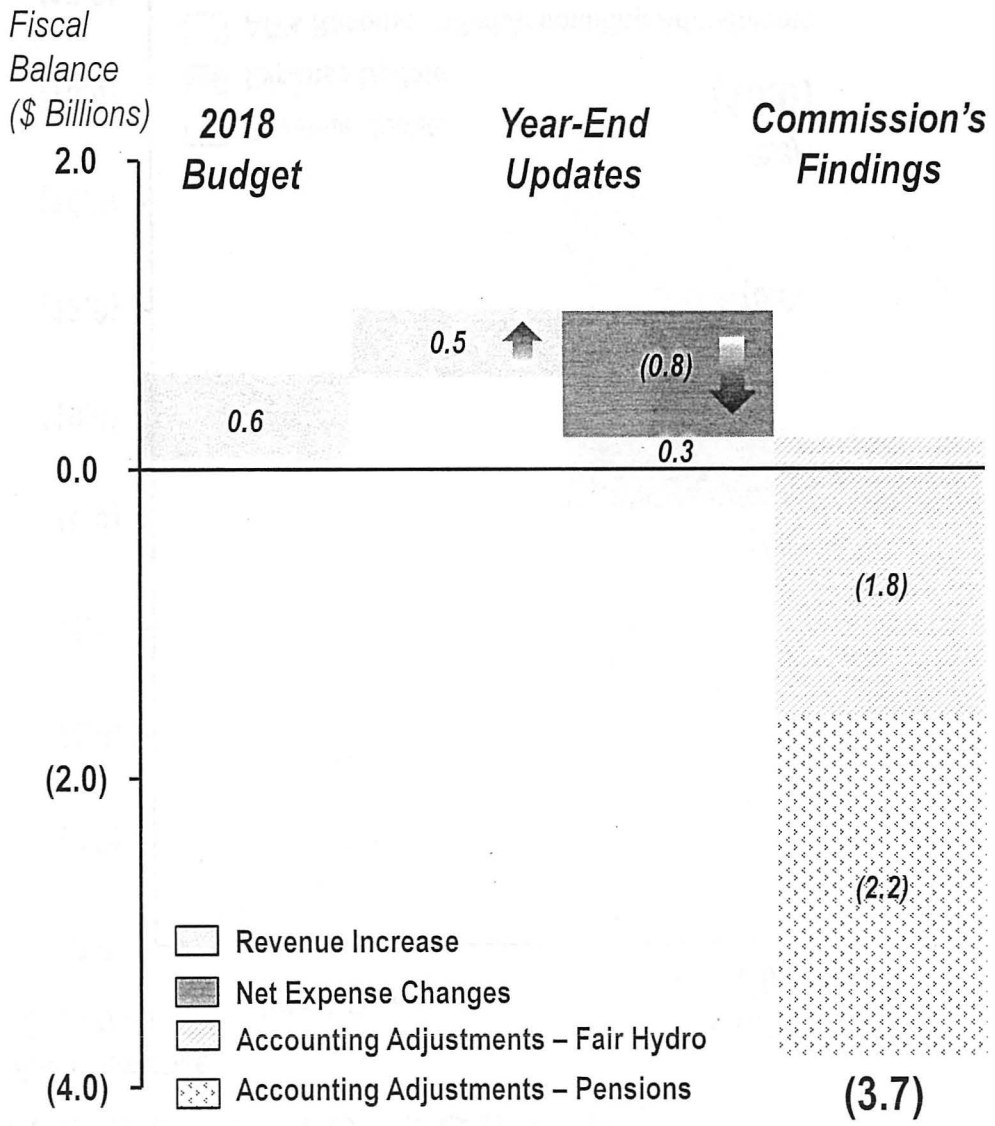


The impacts of the Commission's recommendations are layered onto the 2018 Budget's medium-term outlook. This "baseline" outlook represents a point in time estimate of what the deficit would be if no government actions were taken.

Finalized 2017-18 Public Accounts

Commission Findings

Accounting Adjustments: 2017-18 Public Accounts reflect adjustments for electricity refinancing and two public sector pension plans which each have a fiscal impact of $1.8 billion and $2.2 billion respectively.



*Numbers may not add to rounding

Breakdown of Commission's 2018-19 Outlook

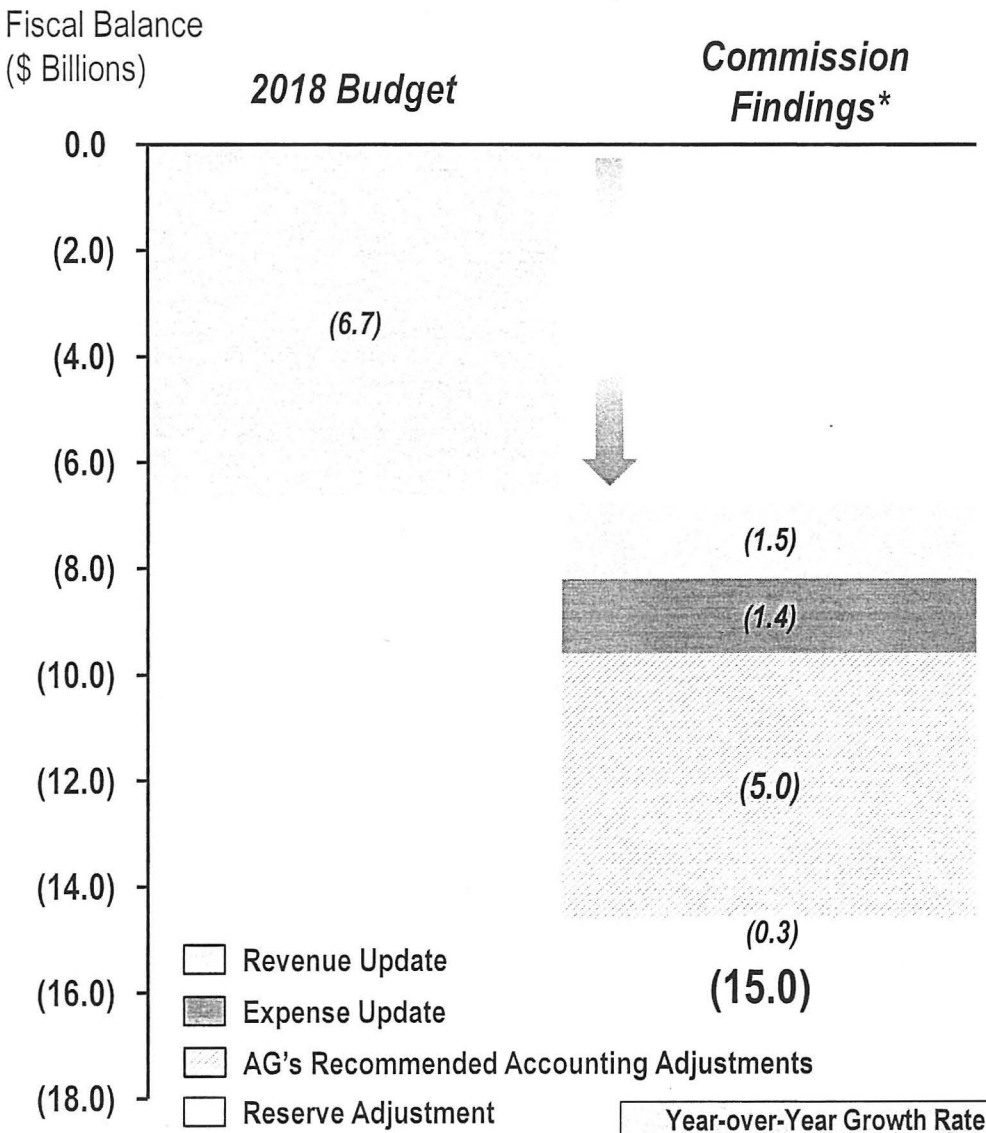
Revenue Update
(1.5) Billion

Expense Update
(Reversed Savings Targets)
1.4 billion

AG Accounting Adjustments
5.0 billion

Reserve Adjustment
0.3 billion

Commission's Revised Fiscal Outlook for 2018-19
(15.0) billion



Year-over-Year Growth Rate
2017-18 to 2018-19
Total Revenue: 0.2 %
Program Expense: 7.0 %

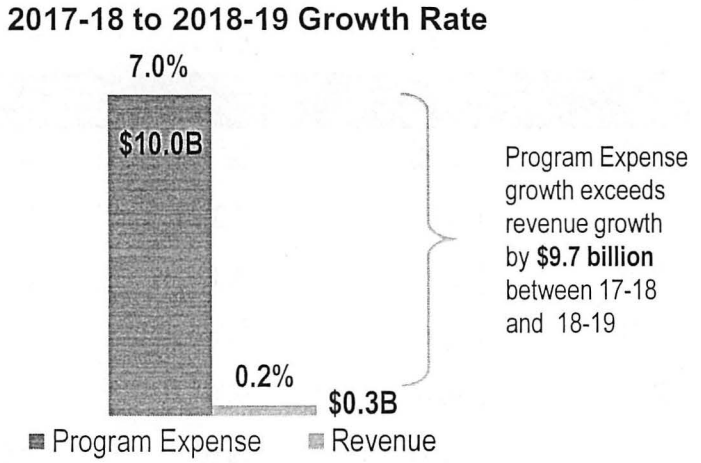
* Note: Does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

Why is the Commission's 2018-19 Deficit so Much Bigger than 2017-18?

($B)*	Actuals 2017-18	Commission Outlook 2018-19	Change
Revenue	150.6	150.9	*0.3*
Expense			
Programs	142.4	152.4	*10.0*
Accounting Adjustments:			
Pension Plans	*2.2*	*2.7*	*0.4*
Fair Hydro Plan	*1.8*	*2.4*	*0.6*
Interest on Debt	11.9	12.5	*0.6*
Total Expense	**154.3**	**164.9**	***10.6***
Surplus/(Deficit) before Reserve	**(3.7)**	**(14.0)**	***(10.3)***
Reserve	-	1.0	*1.0*
Surplus/(Deficit)	**(3.7)**	**(15.0)**	***(11.3)***
Net debt-to-GDP	**39.0%**	**40.5%**	

*Numbers may not add due to rounding

Significant decline in Y-O-Y revenue growth combined with significant Y-O-Y Program Expense growth contribute to rapidly deteriorating 2018-19 outlook



Revenue growth is expected to increase only 0.2% between 2017-18 and the Commission's recommended outlook for 2018-19. This is due to the decline in a number of revenue sources:

- Sales & Rentals related to asset sales (-$1.0 billion)
- Income from Government Business Enterprises (-$0.9 billion)
- Corporations Tax income shifting (-$0.8 billion)
- Land Transfer Tax (-$0.5 billion)
- Equalization (-$0.5 billion)
- Carbon allowance proceeds (-$0.4 billion)

Interest on Debt adds $0.6 billion to expense in 2018-19

The Commission's 2018-19 **program spending forecast** maintains the significant new investments made in the 2018 Budget, resulting in year-over year growth of 7.0%:

- $0.6 billion investments in developmental services and income security reform
- $1 billion in hospitals, mental health, and home and community care
- C-funds in 2018-19 add $1.6 billion to program expense
- Commission outlook removed savings targets, adding $1.4 billion to program expense
- Commission recommended accounting changes grow by $1 billion between 17-18 and 18-19

Reserve of $1 billion is included in 2018-19 which further increases the deficit

Impact of Commission's Findings over the Medium-Term

Extending the impact of the Commission's recommendations for 2018-19 over the medium term results in a deterioration to the outlook for 2019-20, 2020-21, and 2021-22, compared with the *2018 Budget*.

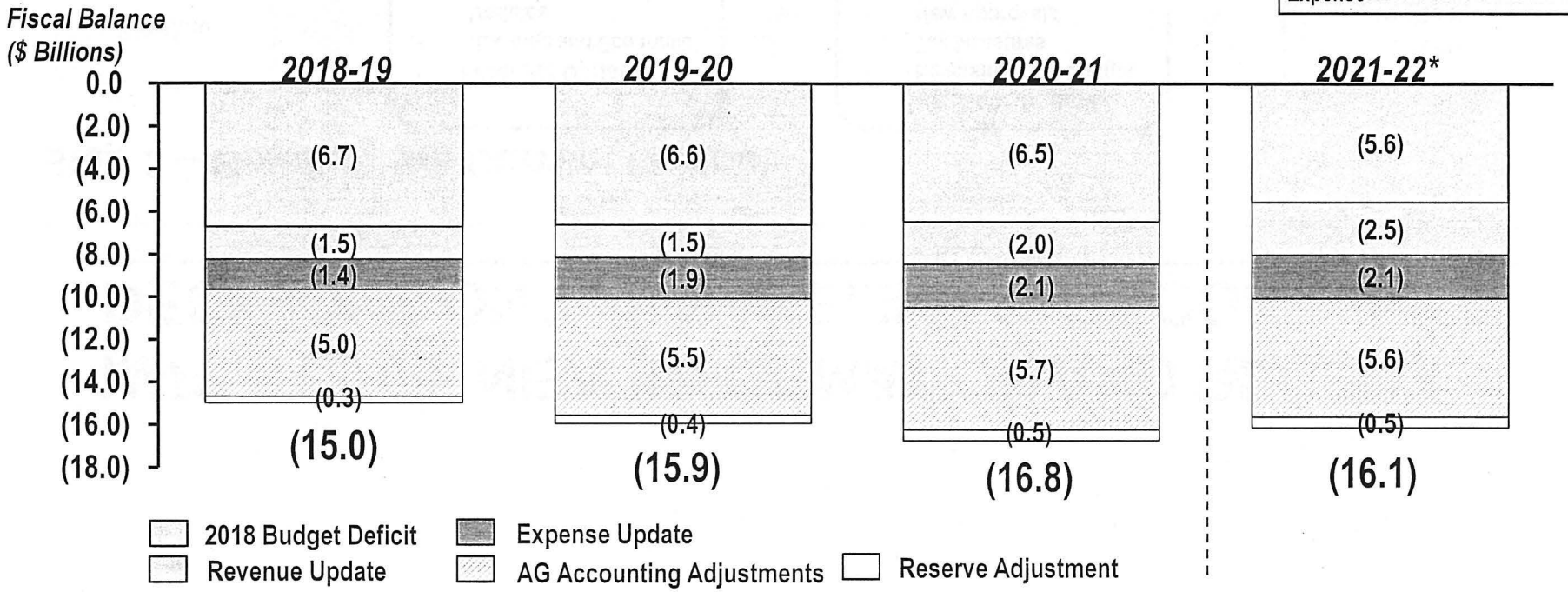
($ Billions)	Commission's Outlook 2018-19	Extending Commission's Recommendations over Medium Term 2019-20	2020-21	2021-22
Revenue Adjustments				
Slower economic growth	(0.4)	(0.6)	(1.1)	(1.5)
Lower housing market resales	(0.4)	(0.2)	(0.2)	(0.2)
Minimum wage increase	(0.1)	(0.1)	(0.1)	(0.1)
Corporate income shifting	(0.8)	(0.8)	(0.8)	(0.8)
2017 Income Tax Assessments	0.2	0.2	0.2	0.2
Total Revenue Adjustments	**(1.5)**	**(1.5)**	**(2.0)**	**(2.5)**
Expense Adjustments				
Reversed Savings Targets	1.4	1.9	2.1	2.1
AG Accounting Recommendation – Pension plans	2.7	3.0	3.3	3.4
AG Accounting Recommendation – Fair Hydro Plans	2.4	2.5	2.5	2.2
Total Expense Adjustments	**6.4**	**7.4**	**7.8**	**7.6**
Reserve Adjustment	**0.3**	**0.4**	**0.5**	**0.5**
Total	**(8.3)**	**(9.3)**	**(10.3)**	**(10.6)**

*Numbers may not add to rounding

Impact of Commission's Findings over the Medium-Term

Continuing with the Commission's baseline for 2018-19 into the out-years shows that the underlying, structural fiscal challenge does not solve itself – however, it is important to note that the Commission forecast is a starting point baseline for planning – it does not take into account any approaches to undoing the key components of the *2018 Budget* forecast.

Average Annual Growth Rates	2018-19 to 2020-21	2018-19 to 2021-22
Total Revenue	3.6%	3.4%
Program Expense	3.6%	3.1%

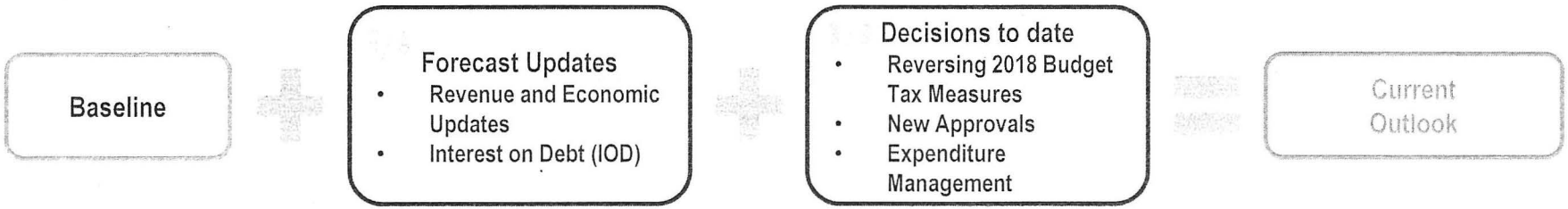


Net Debt-to-GDP (%)	*40.5*	*42.1*	*43.7*	*45.3*
Prudence Levels				
Contingency Fund	*1.6*	*1.9*	*2.5*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

*Note: 2021-22 is based on the *2018 Budget* recovery plan, which falls outside the range of the medium-term outlook. As a result, projections are not driven by policy decisions or analysis, and therefore may contain differential risk that could underestimate the deficit projection.
Also does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

IMPACTS OF NEW INFORMATION AND RECENT DECISIONS ON THE BASELINE OUTLOOK

Step 2 – Building the Current Outlook



The government has already undertaken a number of actions to achieve savings and efficiencies. Additional expenditure management initiatives and refinements to existing programs will also be made in the coming weeks. In addition, economic and revenue updates have occurred since information was shared with the Commission of Inquiry. Layering on these impacts with the reversal of the 2018 Budget tax measures results in the "current outlook" which reflects known information and decisions.

Revenue Forecast Updates and New Decisions

- Economic growth, the reversal of *2018 Budget* tax measures and other decisions, including the wind down of the Cap and Trade program, have deteriorated the revenue outlook relative to the baseline.

($ Billions)	2018-19	2019-20	2020-21	2021-22
Forecast Updates				
Economic Update	(0.4)	(0.7)	(0.4)	0.3
2016 and Prior Year Income Tax Assessments	0.5	--	--	--
OPG / HOL Net Income	(0.1)	(0.1)	(0.2)	(0.2)
Total Forecast Updates	**0.1**	**(0.8)**	**(0.7)**	**0.1**
Impact of New Decisions – In-Year Approvals				
Cap-and-Trade	(1.5)	(1.9)	(1.7)	(1.7)
Past Budget Tax Measures[1]	(0.3)	(0.5)	(0.6)	(0.6)
Treasury Board Approvals[2]	0.0	(0.0)	(0.0)	(0.0)
Total In-Year Approvals	**(1.8)**	**(2.5)**	**(2.3)**	**(2.3)**
Total Revenue Change	**(1.7)**	**(3.3)**	**(3.0)**	**(2.2)**

[1] Includes the reversal of the PIT surtax adjustment, Ontario Research and Development Tax Credit, tax measures targeting the Employer Health Tax exemption to small employers, Small Business Limit, Beer and Wine tax and the $4/carton increase in Tobacco Tax.

[2] Includes the deferral of driver's license and examination fees, higher administrative monetary penalties for impaired driving and the reversal of funds for Community Hubs.

Impact of New Investments and Expense Savings

- Program expense changes reflects government decisions that have been approved or are tracking for approval by TB/MBC.

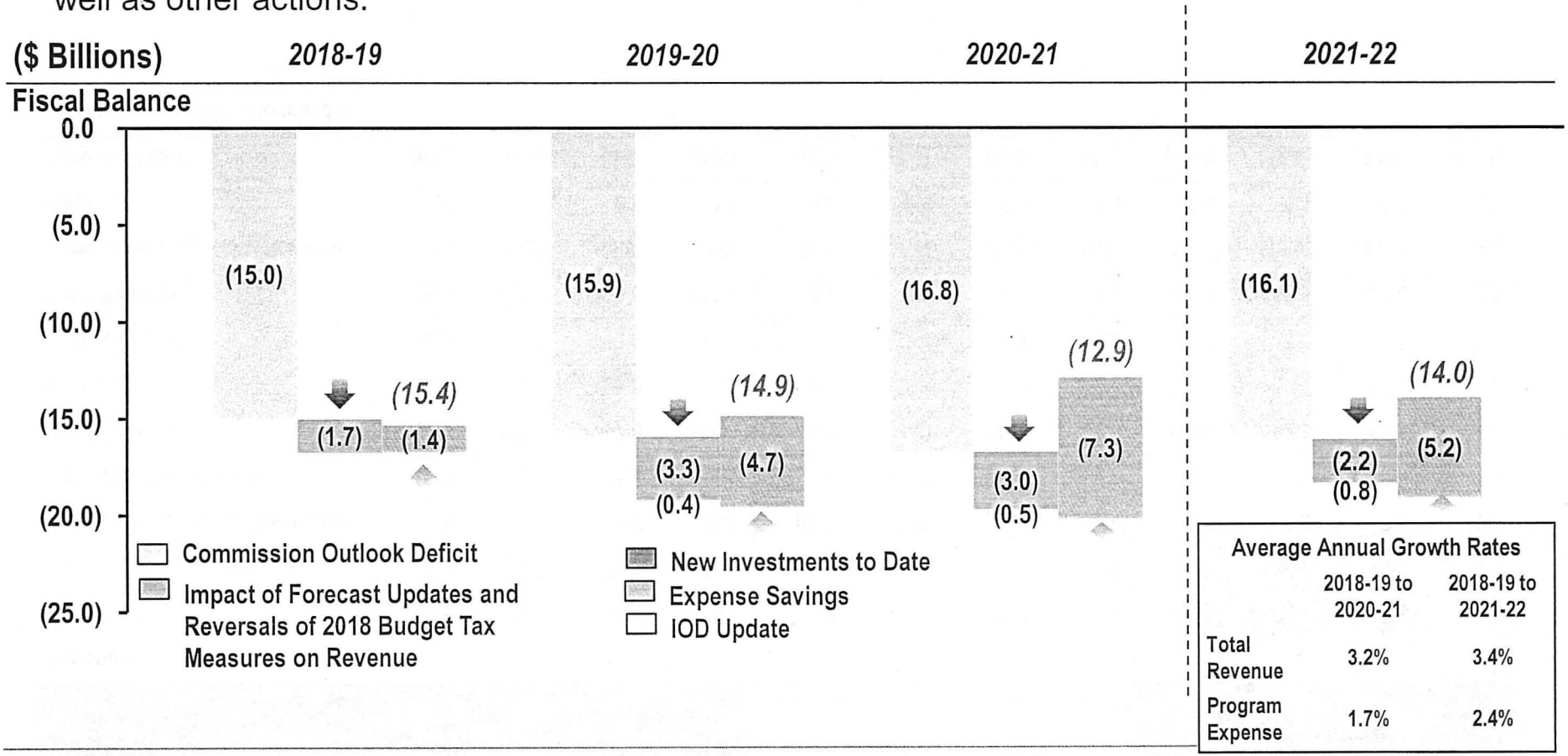
($ Billion)	2018-19	2019-20	2020-21	2021-22
Impact of New Investments – In-Year Approvals				
Emergency Firefighting*	—	—	—	
Resource Revenue Sharing Agreements*	—	—	—	
Total Impact of New Investments – In-Year Approvals	—	—	—	—
Program Expense Savings – In-Year Approvals				
Social Assistance Cost of Living Adjustment (decrease rate for recipients)	(0.3)	(0.6)	(1.1)	
Ontario Prescription Drug and Dental Program (scale back)	(0.0)	(0.3)	(0.5)	
OHIP + to Seniors (scale back)	—	(0.4)	(0.6)	
Child Care Funding Program Adjustments (increase limitations and streamline process)	(0.0)	(0.2)	(1.5)	
Grants for Student Needs (GSN) (repurpose funding)	(0.0)	(0.1)	(0.2)	
All Other Approvals	(0.1)	(0.2)	(0.1)	
Total Program Expense Savings – In-Year Approvals	**(0.5)**	**(1.8)**	**(4.1)**	**(1.2)**
Program Expense Savings – Items Tracking for Approval, including:				
Mental Health & Addiction	(0.1)	(0.1)	(0.2)	
Senior Healthy Homes Credit	—	(0.4)	(0.4)	
Developmental Services	—	(0.3)	(0.4)	
Ontario's R&D Tax Credit - Innovation	(0.0)	(0.0)	(0.0)	
All Other Tracking	(0.0)	(0.9)	(1.1)	
Total Program Savings – Items Tracking for Approval	**(0.1)**	**(1.6)**	**(2.1)**	**(3.1)**
Estimated Expense Impact of Winding-Down Funded out of Cap-and Trade	**(0.7)**	**(1.3)**	**(1.1)**	**(0.9)**
Total Program Expense Change including Cap & Trade	**(1.4)**	**(4.7)**	**(7.3)**	**(5.2)**

*Assumes item will be offset from contingency fund

*Numbers may not add to rounding

Impact of New Decisions/Information Result in Current Outlook

- The current outlook builds off of the Commission's outlook (grey bar), and layers on approvals to date (both expenditure management decisions and decisions to reverse *2018 Budget* measures), as well as other actions.



Net Debt-to-GDP (%)	*40.5*	*42.0*	*43.0*	*44.3*
Prudence Levels				
Contingency Fund*	*1.5*	*1.8*	*2.2*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

*Contingency fund level reflects in-year approval changes

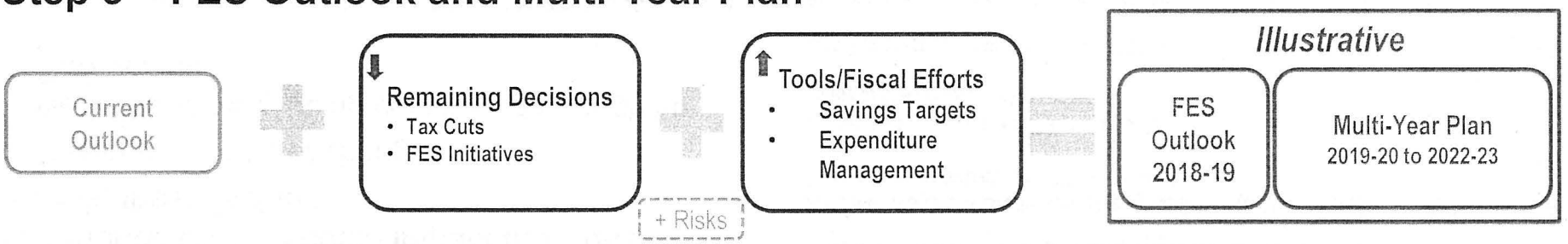
Crosswalk from *2018 Budget/Pre-Election Report* to the Current Outlook

2018 Budget / Pre-Election Report (A)					Change (B) – (A)				Current Outlook (B)			
($ Billions)	18-19	19-20	20-21	21-22	18-19	19-20	20-21	21-22	18-19	19-20	20-21	21-22
Revenue												
Taxation Revenue	103.6	108.1	112.4	N/A	*(1.7)*	*(2.7)*	*(3.0)*	*N/A*	101.9	105.4	109.5	N/A
Government of Canada	26.0	25.7	26.8	N/A	-	*(0.1)*	*(0.0)*	*N/A*	26.0	25.7	26.8	N/A
Government Business Enterprises	5.3	6.0	6.6	N/A	*(0.1)*	*(0.1)*	*(0.2)*	*N/A*	5.2	5.9	6.4	N/A
Other Non-Tax Revenue	17.6	17.7	18.0	N/A	*(1.5)*	*(1.9)*	*(1.8)*	*N/A*	16.1	15.8	16.3	N/A
Total Revenue	**152.5**	**157.6**	**163.8**	**169.5**	***(3.3)***	***(4.8)***	***(4.9)***	***(4.7)***	**149.2**	**152.8**	**158.9**	**164.8**
Programs	145.9	150.4	155.8	159.5	*5.1*	*2.7*	*0.5*	*2.4*	151.0	153.1	156.3	161.9
Interest on Debt	12.5	13.1	13.8	14.9	–	*0.4*	*0.5*	*0.8*	12.5	13.5	14.3	15.7
Total Expense	**158.5**	**163.5**	**169.6**	**174.4**	***5.1***	***3.1***	***1.0***	***3.2***	**163.6**	**166.6**	**170.6**	**177.6**
Surplus/Deficit Before Reserve	**(6.0)**	**(5.9)**	**(5.8)**	**(4.9)**	***(8.4)***	***(7.9)***	***(5.9)***	***(7.9)***	**(14.4)**	**(13.8)**	**(11.7)**	**(12.8)**
Reserve	0.7	0.7	0.7	0.7	*0.3*	*0.4*	*0.5*	*0.5*	1.0	1.1	1.2	1.2
Surplus/Deficit	**(6.7)**	**(6.6)**	**(6.5)**	**(5.6)**	***(8.7)***	***(8.3)***	***(6.4)***	***(8.4)***	**(15.4)**	**(14.9)**	**(12.9)**	**(14.0)**

*Numbers may not add to rounding

ILLUSTRATIVE SCENARIOS FOR PLANNING

Step 3 – FES Outlook and Multi-Year Plan

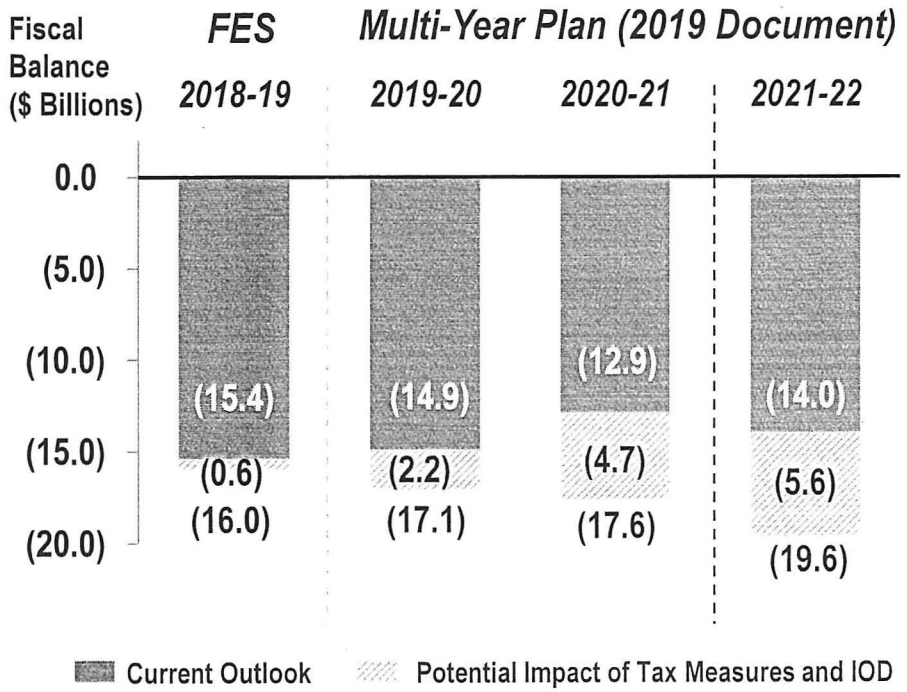


In order to land the 2018 FES outlook and the multi-year plan, a number of choices exist which include impacts that deteriorate the outlook (e.g. the timing and roll out of any potential tax cuts) and those that improve the outlook (e.g., efficiencies measures from LBL review). The illustrative scenarios presented on the represent a range of potential fiscal outlooks based on a range of choices.

FES and Multi-Year Planning Outlook

There are a number of potential items, which are subject to decisions on design and timing of implementation, that could impact the Current Outlook, these include:

- Potential tax cuts or changes
- New investments being considered through the FES process



($ Billions)	2018-19	2019-20	2020-21	2021-22
Potential Tax Cuts - Design and Implementation Details TBC				
Minimum Wage Tax Credit (ON Employment Tax Reduction) (effective for 2019 tax year)	(0.1)	(0.6)	(0.6)	(0.6)
20 per cent cut to second PIT tax bracket (likely to start in 2020-21)	—	—	(2.6)	(2.6)
Gas Tax Decrease (starting April 1, 2021)	—	—	—	(1.3)
Aviation fuel tax decrease for the north (as early as April 1, 2019)	—	(0.0)	(0.0)	(0.0)
Impact of Federal Capital Cost Allowance	(0.4)	(1.1)	(1.0)	(0.3)
Total Potential Tax Cuts	**(0.5)**	**(1.7)**	**(4.1)**	**(4.7)**
Potential Tax Credits* - Design and Implementation Details TBC				
Refundable Tax Credit for Childcare Costs	0.1	0.4	0.4	0.4
Total Potential Tax Credits*	**0.1**	**0.4**	**0.4**	**0.4**
Other New Initiatives - Design and Implementation Details TBC				
12% Electricity Rate Reduction	—	TBD	TBD	TBD
Total Other New Initiatives	**TBD**	**TBD**	**TBD**	**TBD**
Interest on Debt Impact	**—**	**0.1**	**0.2**	**0.5**
Total Fiscal Impact of Potential New Measures and IOD	**(0.6)**	**(2.2)**	**(4.7)**	**(5.6)**

*Tax credits and IOD increase the expense outlook
Note numbers may not add due to rounding

Principles to Guide the Fiscal Planning Process

The fall fiscal planning process provides an opportunity to establish principles that can help guide fiscal policy decisions moving forward. Principles should be shaped and informed by the findings of the Commission and Line-by-Line Review, in an effort to respond to key recommendations in both reports.

Fiscal Targets

- Build in room for improvement to the 18-19 deficit trajectory in the lead up to Budget
- Through the outcomes of the multi-year planning process, clearly communicate and provide transparency around policy implications of achieving fiscal targets over the outlook and the recovery plan, including the time frame for balance

Net Debt

- Ensure Ontario's Net Debt-to-GDP is on a declining and fiscally sustainable track

Revenue

- Ground revenue forecast in the economic outlook for Ontario and globally, as well as government policy direction

Expense

- Prioritize spending on investments that support the government's priorities while maintaining an efficient/effective use of resources that generate outcomes

Prudence

- Build enough prudence in the plan to allow for unforeseen developments, known impacts and risk profile taken on in the plan

Fiscal Tools

- In addition to expenditure management initiatives already undertaken and those still to be considered which could result in additional savings, a number of tools exist that can support the achievement of fiscal targets and help close the fiscal gap on the way to a balanced plan:

  - Outcomes from the Line-by-Line review
  - Accounting adjustments including review of pension accounting for future years, once an agreement by the Auditor General is secured
  - Adjusting prudence levels, including resetting contingency fund levels and resetting the reserve
  - Adjusting the scope, scale and timing of tax changes under consideration

- Consistent with the Commission's recommendations, the government will need to ensure that any tools such as savings targets or other measures adopted are linked to specific plans for delivery and implementation.

Key Decisions and Next Steps

Fall Statement

- Confirm focus of FES details on 2018-19 only; and what should be fiscal target for 2018-19?
- Incorporate outstanding information, such as updated interest on debt and the impact of federal measures.
- Confirm specific measures (tax and other) to be incorporated and announced in FES with 2018-19 implications. What other measures to build into the 2018-19 target that may not be announced until after FES, e.g. 2019 Document?
- How much additional savings are required to meet the 2018-19 FES target and how to specifically allocate/minute these across ministries in 2018-19 to ensure achievement of the fiscal target?
- What should be the right level of prudence to incorporate?
- How much detail to provide about a path to return to balance in FES?

Multi-Year Planning

- What could be a responsible timeframe within which to target a return to balance?
- How much overall savings should be targeted to achieve balance? What is a reasonable growth rate in spending to target?
- Which specific Line-by-Line hypotheses to build into allocations?
- What additional efficiency targets across ministries should be included?
- How should future budget initiatives (tax cuts, investments) be assumed? What are the trade-offs, if any, in terms of new initiatives vs. reducing the savings required to meet fiscal targets?

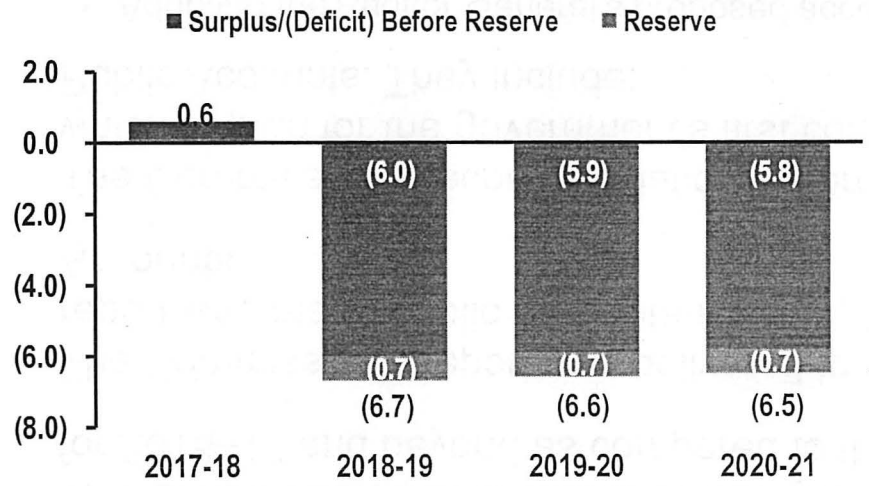
APPENDIX

Recapping the *2018 Budget / Pre-Election Report* Fiscal Architecture

- The *2018 Budget* and Pre-Election Report projected deficits over the next three fiscal years.
- The *2018 Budget* also included a plan that projected balance by 2024-25.

2018 Budget / Pre-Election Report Fiscal Targets

Fiscal Balance
($ Billions)



	2017-18	2018-19	2019-20	2020-21
Net Debt-to-GDP (%)	37.1	37.6	38.2	38.6

Average Annual Growth Rates 2018-19 to 2020-21

Revenue: 3.7%
Program Expense: 3.3%.

Overview of Medium-Term Outlook

- Forecast for **rising revenues** driven by private sector forecasts for **modest sustained economic growth**.
  - Significant economic and revenue **risks**, including those related to trade with the United States, rising interest rates and slowing household spending.
  - The *2018 Budget* outlook included revenue measures such as changing the Personal Income Tax brackets and surtax.
- **Program spending was projected to increase significantly** in each year over the medium-term primarily **due to a number of new initiatives**, as well as demand pressures from existing programs.
  - New initiatives over the medium-term outlook totaled $13.3 billion, including $2.1 billion in 2018-19, $4.2 billion in 2019-20 and $7.0 billion in 2020-21 (note: excludes increases made to existing base spending to keep pace with cost drivers, technical updates, etc.).
- The Auditor General's recommended accounting adjustments for electricity refinancing and two public sector pension plans were not reflected in the *2018 Budget* and Pre-Election Report outlook (potential fiscal impact of $5.0 billion in 2018-19).

Commission's Findings

- On July 17, 2018, the government established an Independent Financial Commission of Inquiry to review Ontario's past spending and accounting practices.
- The Commission was also tasked with providing advice on the Province's budgetary position for 2018–19 and beyond as compared to the position presented in the *2018 Budget*.
- The Commission's report was delivered to the Minister of Finance on August 30, 2018. The report was made public on September 21, 2018, along with the release of the 2017-18 Public Accounts.
- The Commission's recommendations inform the baseline fiscal outlook for 2018-19, from which to plan for the government's first comprehensive fiscal update, as well as the 2017-18 Public Accounts. They include:
  - Adopting the Auditor General's proposed accounting treatment for Global Adjustment Refinancing
  - Adopting the Auditor General's proposed accounting treatment for any net pension assets for the Ontario Teacher's Pension Plan and the Ontario Public Service Employees Union Pension Plan on a provisional basis, until an agreement is reached between the government and the Auditor General.
  - Adjusting revenue and expense projections based on the latest available information, and restoring the reserve to at least the historical level of $1 billion.
  - Establishing a fiscal plan that includes near and medium-term deficit targets and clearly describes how the government will achieve and report on these targets.
  - Conducting analysis to determine and set an appropriate target and timeline to reduce the Province's ratio of net debt-to-GDP.

Commission's Findings Continued

- The Commission recommended that the government undertake a review of the *Fiscal Transparency and Accountability Act*, 2004 (FTAA) to improve its effectiveness in guiding government fiscal planning and reporting
    - For example, the Commission suggests that increasing transparency around policy implications of achieving balanced budgets could help Ontarians understand the transformational changes, service reductions, or new revenue-raising capacity that might be necessary to achieve balance, and therefore make the requirement for a recovery plan in FTAA more meaningful.
- Set a long-term goal of restoring the Province's AAA credit rating
- Expand Ontario's Long-Term Report on the Economy to include additional analysis on fiscal sustainability and set out the fiscal implications of current trends and future risks.

Impact of Commission's Findings for 2018-19

Revenue	Impact $B
Slower economic growth *Average Private Sector forecast for Ontario GDP growth lower than at the time of the 2018 Budget*	(0.4)
Lower housing market resales *Over the first half of 2018, both the quantity and prices of home resales were notably lower than previously anticipated.*	(0.4)
Minimum wage increase *Distributional impact of the increase in minimum wage in income tax revenue projections.*	(0.1)
Corporate income shifting *Risk of businesses shifting of income out of Ontario due to lower U.S. corporate income tax rates*	(0.8)
2017 Income Tax Assessments *Net increase in income tax revenue based on preliminary information on 2017 tax assessments*	0.2
Total Revenue adjustments	**(1.5)**

Expense	Impact $B
Reversed savings targets *Year–end savings target and program review savings target removed because as of the end of the first quarter of 2018-19, the government had not yet identified specific measures to meet the year-end savings and program review savings targets built into the 2018 Budget.*	1.4
Accounting Adjustments *Fiscal impact of Auditor General's recommended accounting treatment: $2.4B for global adjustment refinancing and $2.7B for two public sector pension plans*	5.0
Total Expense adjustments	**6.4**
Reserve Adjustment *The Reserve was set at a historically low level of $0.7 billion in the 2018 Budget. This adjusts the reserve to be more consistent with historical levels over the last seven years of $1 billion.*	**0.3**

*Numbers may not add to rounding

Items Tracking – Expense Estimates

($ Billions)	2018-19	2019-20	2020-21	2021-22
Heavy Lifting Remaining – Initiatives on hold – amount of spending to be determined.				
Correctional Services Transformation: Legislative Compliance	(0.1)			
Additional Supports for Apprentices and Employers	(0.1)			
Autism	(0.1)			
All Other Tracking*	(1.2)			
Total Initiatives on Hold	**(1.5)**			
Decision made. Savings to be determined				
Expenditure management levers				
Freeze non-bargaining management compensation				
BPS executive compensation				
OHIP+ for children and youth – refine program eligibility requirements				
Université de l'Ontario française.				
Total Expense Estimate	**(1.5)**			

*Includes initiatives such as Strategy to address Gender Violence, MTO Drive Test Centres, Police Oversight Review, Smart Grid Fund and Youth Employment in Small Business

Risks to the Fiscal Plan

- Revenue risks that could impact the outlook are outlined below.

Key Revenue Risks ($ B)	Average Annual Variance	Risk Assessment
Revised Economics	+/-$0.6	+
2017 PIT Assessment Data	+/-$0.5	-
2017 CIT Assessment Data	+/-$1.8	+
HST Entitlement Update	+/-$1.3	+
Monthly Own-Source Tax collection data (including LTT)	+/-0.3	=
OEB Regulatory Decision	N/A	-
OLG and LCBO Net Income	+$0.2	+

- Expense risks that could impact the outlook are outlined below.

Expense Risks ($ B)	2018-19	2019-20	2020-21	2021-22
Ministry Risks Reported at Q1	0.6	TBD	TBD	TBD
Cap and Trade Expense Decisions	TBD	TBD	TBD	TBD
Expenditure Management Items Still Tracking to TB/MBC	TBD	TBD	TBD	TBD
Compensation Risks	TBD	TBD	TBD	TBD
Consolidations Adjustments	TBD	TBD	TBD	TBD
Total Expense Risks	**TBD**	**TBD**	**TBD**	**TBD**

Potential Fiscal Impact of Cap and Trade Wind-Down

- A **preliminary estimate** of the potential fiscal impact of winding down the cap and trade program **ranges from $0.6 billion to $0.8 billion** per fiscal year.
  - The loss of revenue is greater than the expense savings as some of the planned expenditures were to be amortized. Expense items remaining in-plan primarily include the electrification of the Regional Express Rail.
  - Ministries have also been directed to report back to Treasury Board/Management Board of Cabinet by October with a status update on wind-down costs.

Potential Fiscal Impact of Cap and Trade Wind-Down

	2018 Budget / Pre-Election Report (A)			*Change/ Fiscal Impact** (B) – (A)			Resulting Cap and Trade Fiscal Assumptions (B)		
$ Millions	**2018-19**	**2019-20**	**2020-21**	***2018-19***	***2019-20***	***2020-21***	**2018-19**	**2019-20**	**2020-21**
Revenue	1,979	1,923	1,749	*(1,507)*	*(1,923)*	*(1,749)*	472	–	–
Expense	1,226	1,301	1,105	*(693)*	*(1,301)*	*(1,105)*	534	–	–
Balance – Fiscal Benefit/(Deterioration)	752	622	644	*(814)*	*(622)*	*(644)*	(62)	–	–

* Assumes no fiscal impact associated with capital asset investments.

FALL FISCAL PLANNING

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

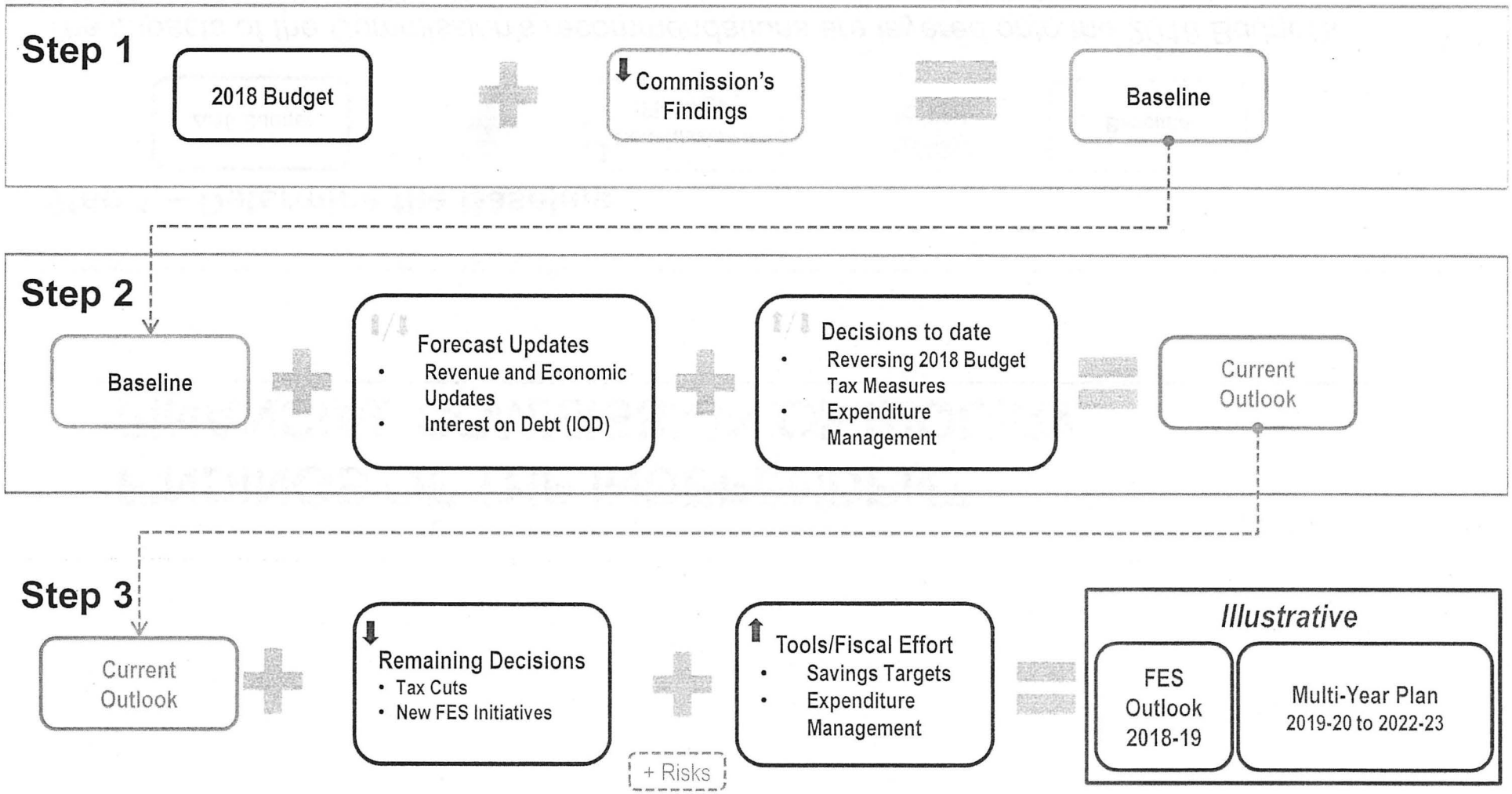
Draft, September 25, 2018 10:30 PM

Tabled Sept 26/19

Purpose

- Initiate fall fiscal planning by providing an overview of Ontario's fiscal position and updating for key inputs:
  - ***Establish a baseline*** fiscal outlook that is informed by the findings of the Financial Commission of Inquiry
  - Adjust for ***information updates and early decisions*** taken by government to present the ***current outlook***
  - Present illustrative scenarios to foreshadow the ***impacts of decisions*** required to determine the ***Fall Economic Statement and Multi-Year Planning Outlook***
- Outline building blocks and core principles that will guide fiscal planning and inform the Fall Economic Statement

Steps to Updating the Fiscal Outlook



⬆ Potential fiscal benefit (improvement)
⬇ Potential fiscal pressure (deterioration)
⬆/⬇ Potential fiscal benefit/pressure direction unclear (improvement or deterioration)

FINDINGS OF THE INDEPENDENT FINANCIAL COMMISSION OF INQUIRY

Step 1 – Determine the Baseline



The impacts of the Commission's recommendations are layered onto the 2018 Budget's medium-term outlook. This "baseline" outlook represents a point in time estimate of what the deficit would be if no government actions were taken.

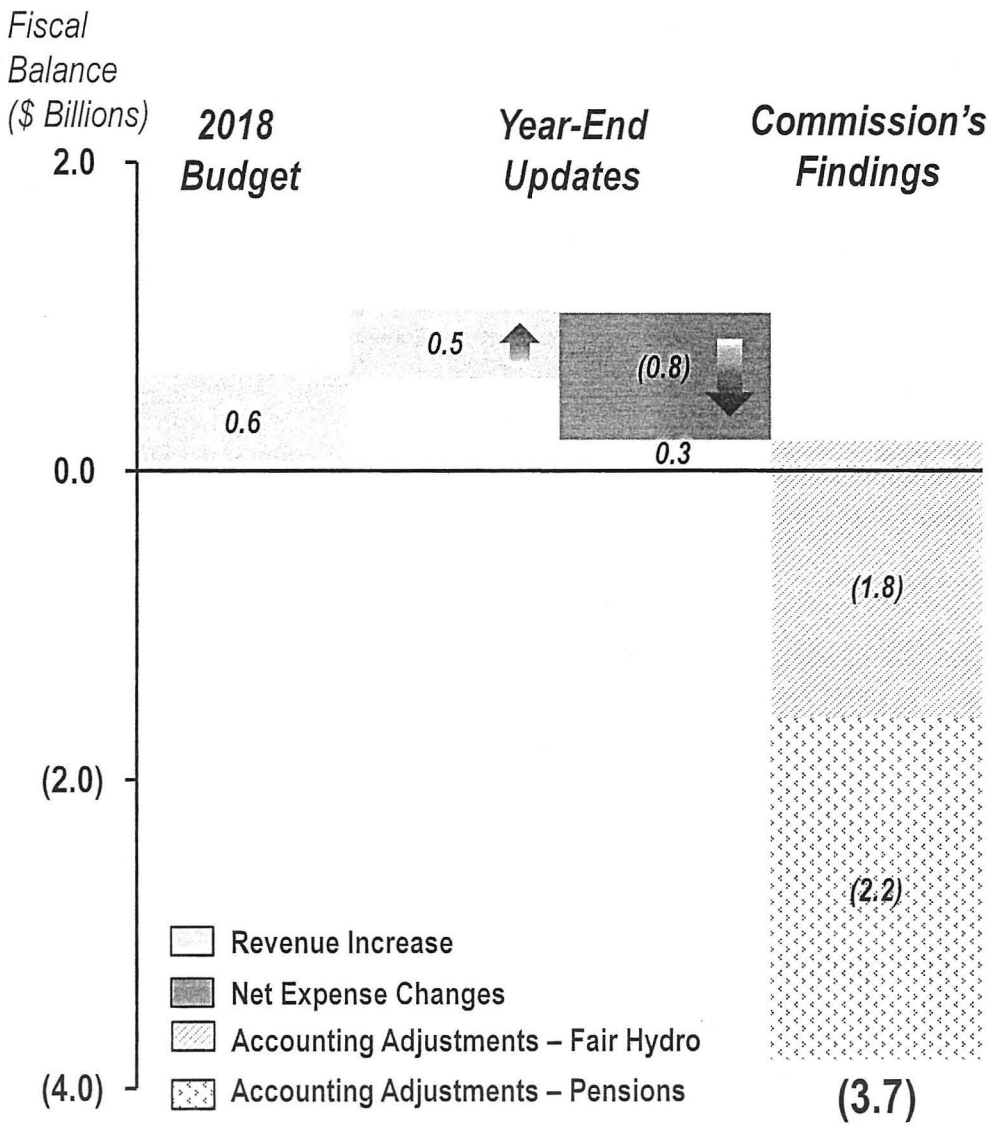
Commission's Findings

- On July 17, 2018, the government established an Independent Financial Commission of Inquiry to review Ontario's past spending and accounting practices.
- The Commission was also tasked with providing advice on the Province's budgetary position for 2018–19 and beyond as compared to the position presented in the *2018 Budget*.
- The Commission's report was delivered to the Minister of Finance on August 30, 2018. The report was made public on September 21, 2018, along with the release of the 2017-18 Public Accounts.
- The Commission's recommendations inform the baseline fiscal outlook for 2018-19, from which to plan for the government's first comprehensive fiscal update, as well as the 2017-18 Public Accounts. They include:
  - Adopting the Auditor General's proposed accounting treatment for Global Adjustment Refinancing
  - Adopting the Auditor General's proposed accounting treatment for any net pension assets for the Ontario Teacher's Pension Plan and the Ontario Public Service Employees Union Pension Plan on a provisional basis, until an agreement is reached between the government and the Auditor General.
  - Adjusting revenue and expense projections based on the latest available information, and restoring the reserve to at least the historical level of $1 billion.
  - Establishing a fiscal plan that includes near and medium-term deficit targets and clearly describes how the government will achieve and report on these targets.
  - Conducting analysis to determine and set an appropriate target and timeline to reduce the Province's ratio of net debt-to-GDP.

Finalized 2017-18 Public Accounts

Commission Findings

Accounting Adjustments: 2017-18 Public Accounts reflect adjustments for electricity refinancing and two public sector pension plans which each have a fiscal impact of $1.8 billion and $2.2 billion respectively.



*Numbers may not add to rounding

Impact of Commission's Findings for 2018-19

Revenue	Impact $B
Impact of slower economic growth *Average Private Sector Ontario Real GDP growth projections for 2018 declined by 0.3 percentage points, from 2.3 per cent at the time of the 2018 Budget to 2.0 per cent*	(0.4)
Impact of lower housing market resales *The housing market was significantly impacted by federal mortgage rules that came into effect on January 1, 2018. Over the first half of 2018, both the quantity and prices of home resales were notably lower than previously anticipated and are expected to impact Land Transfer Tax revenues*	(0.4)
Impact of minimum wage increase on Personal Income Tax (PIT) *Distributional PIT impact of stronger compensation of employees caused by the increase in minimum wage*	(0.1)
Impact of corporate income shifting *Risk of businesses shifting of income and investments to the U.S. due to lower corporate tax rates*	(0.8)
Updates from Income Tax Assessment *Potential increase in income tax revenue based on updated information due to 2017 PIT and CIT tax assessment results*	0.2
Total Revenue adjustments	**(1.5)**

Expense	Impact $B
Reversed savings targets *Year–end savings target and program review savings target removed because as of the end of the first quarter of 2018-19, the government had not yet identified specific measures to meet the year-end savings and program review savings targets built into the 2018 Budget.*	1.4
Accounting Adjustments *Fiscal impact of Auditor General's recommended accounting treatment: $2.4B for global adjustment refinancing and $2.7B for two public sector pension plans*	5.0
Total Expense adjustments	**6.4**
Reserve Adjustment *The Reserve was set at a historically low level of $0.7 billion in the 2018 Budget. This adjusts the reserve to be more consistent with historical levels over the last seven years of $1 billion.*	**0.3**

*Numbers may not add to rounding

Breakdown of Commission's 2018-19 Outlook

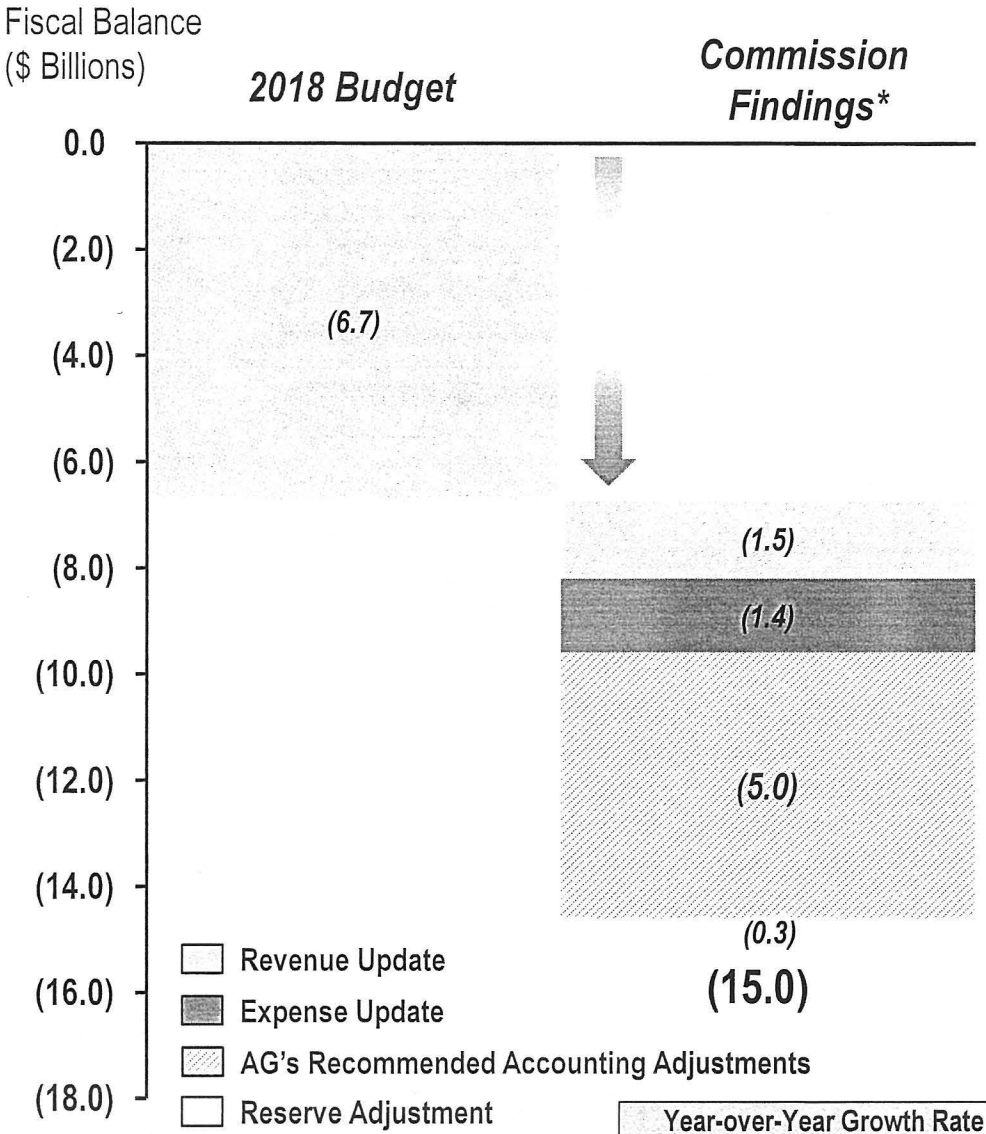
Revenue Update
(1.5) Billion

Expense Update
(Reversed Savings Targets)
1.4 billion

AG Accounting Adjustments
5.0 billion

Reserve Adjustment
0.3 billion

Commission's Revised Fiscal Outlook for 2018-19
(15.0) billion



Year-over-Year Growth Rate
2017-18 to 2018-19
Total Revenue: 0.2 %
Program Expense: 7.0 %

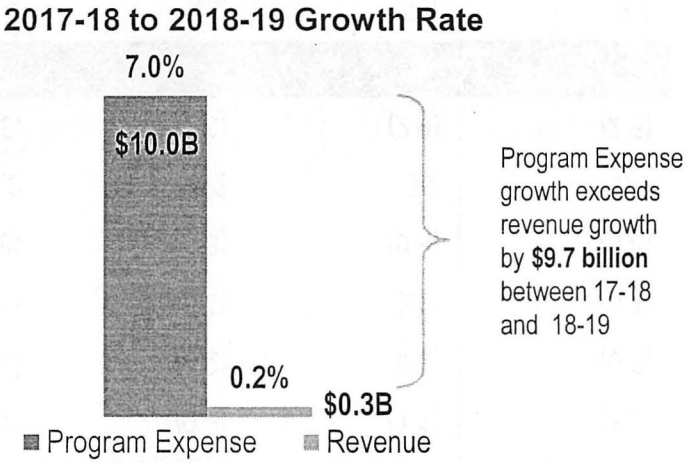
* Note: Does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

Why is the 2018-19 Deficit so Much Bigger than 2017-18?

($B)*	Actuals 2017-18	Commission Outlook 2018-19	Change
Revenue	150.6	150.9	*0.3*
Expense			
Programs	142.4	152.3	*10.0*
Accounting Adjustments:			
Pension Plans	*2.2*	*2.7*	*0.4*
Fair Hydro Plan	*1.8*	*2.4*	*0.6*
Interest on Debt	11.9	12.5	*0.6*
Total Expense	154.3	164.9	*10.6*
Surplus/(Deficit) before Reserve	(3.7)	(14.0)	*(10.3)*
Reserve	-	1.0	*1.0*
Surplus/(Deficit)	(3.7)	(15.0)	*(11.3)*
Net debt-to-GDP	39.0%	40.5%	

*Numbers may not add due to rounding

Significant decline in Y-O-Y revenue growth combined with significant Y-O-Y Program Expense growth contribute to rapidly deteriorating 2018-19 outlook



Revenue growth has leveled off and is expected to increase only 0.2% between 2017-18 and the commissions recommended outlook for 2018-19. This is due to the decline in a number of revenue sources:

- Sales & Rentals related to asset sales (-$1.0 billion)
- Income from Government Business Enterprises (-$0.9 billion)
- Corporations Tax (-$1.3 billion)
- Land Transfer Tax (-$0.5 billion)
- Equalization (-$0.5 billion)
- Carbon allowance proceeds (-$0.4 billion)

Interest on Debt adds $0.6 billion to expense in 2018-19

The Commission's 2018-19 **program spending forecast** maintains the significant new investments made in the 2018 Budget, resulting in year-over year growth of 7.0%:

- $0.6 billion investments in developmental services and income security reform
- $1 billion in hospitals, mental health, and home and community care
- C-funds in 2018-19 add $1.6 billion to program expense
- Commission outlook removed savings targets, adding $1.4 billion to program expense
- Commission recommended accounting changes grow by $1 billion between 17-18 and 18-19

Reserve of $1 billion is included in 2018-19 which further increases the deficit

Impact of Commission's Findings over the Medium-Term

Extending the impact of the Commission's recommendations for 2018-19 over the medium term results in a deterioration to the outlook for 2019-20, 2020-21, and 2021-22, compared with the *2018 Budget*.

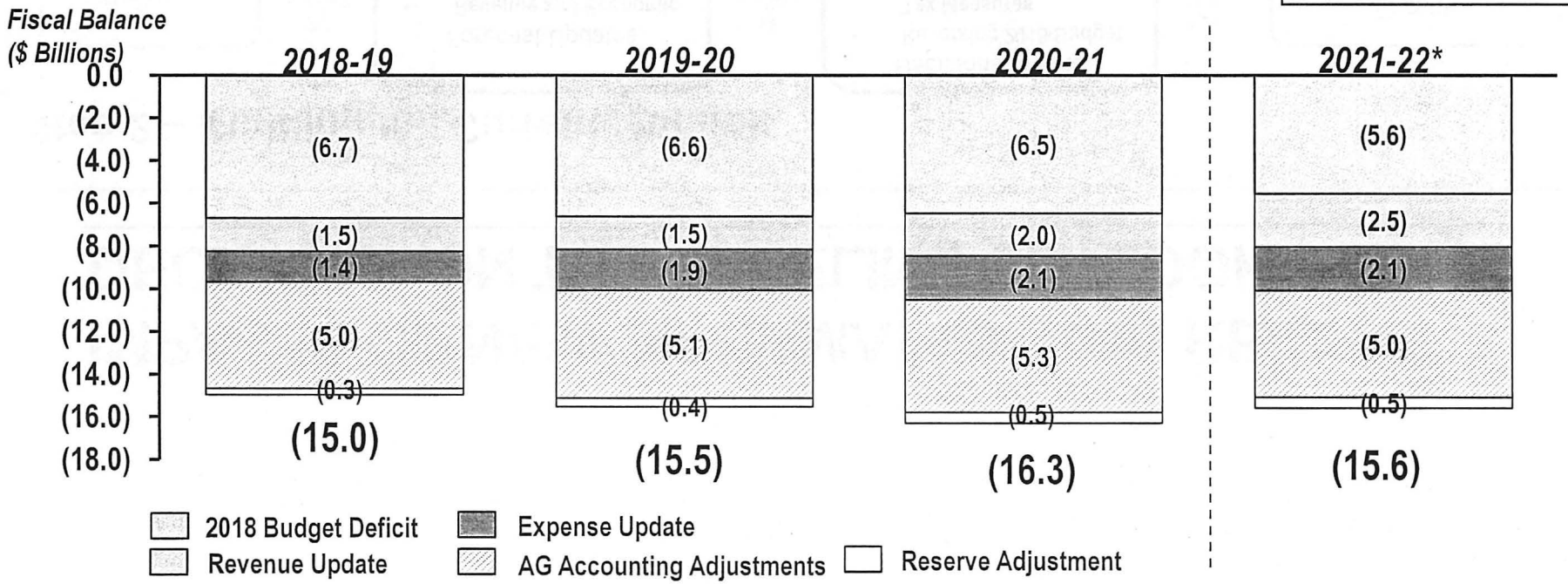
	Commission's Outlook	Extending Commission's Recommendations over Medium Term		
($ Billions)	**2018-19**	**2019-20**	**2020-21**	**2021-22**
Revenue Adjustments				
Impact of slower GDP growth	(0.4)	(0.6)	(1.1)	(1.5)
Impact of lower housing market resales	(0.4)	(0.2)	(0.2)	(0.2)
Impact of minimum wage increase on Income Taxes	(0.1)	(0.1)	(0.1)	(0.1)
Impact of corporate income shifting due to US tax reform	(0.8)	(0.8)	(0.8)	(0.8)
Updates from 2017 Income Tax Assessment	0.2	0.2	0.2	0.2
Total Revenue Adjustments	**(1.5)**	**(1.5)**	**(2.0)**	**(2.5)**
Expense Adjustments				
Reversed Savings Targets	1.4	1.9	2.1	2.1
AG Accounting Recommendation – Pension plans	2.7	2.6	2.8	2.8
AG Accounting Recommendation – Fair Hydro Plans	2.4	2.5	2.5	2.2
Total Expense Adjustments	**6.5**	**7.0**	**7.3**	**7.1**
Reserve Adjustment	**0.3**	**0.4**	**0.5**	**0.5**
Total	**(8.3)**	**(8.9)**	**(9.8)**	**(10.0)**

*Numbers may not add to rounding

Impact of Commission's Findings over the Medium-Term

Continuing with the Commission's baseline for 2018-19 into the out-years shows that the underlying, structural fiscal challenge does not solve itself – however, it is important to note that the Commission forecast is a starting point baseline for planning – it does not take into account any approaches to undoing the key components of the *2018 Budget* forecast.

Average Annual Growth Rates	2018-19 to 2020-21	2018-19 to 2021-22
Total Revenue	3.6%	3.4%
Program Expense	3.5%	3.0%

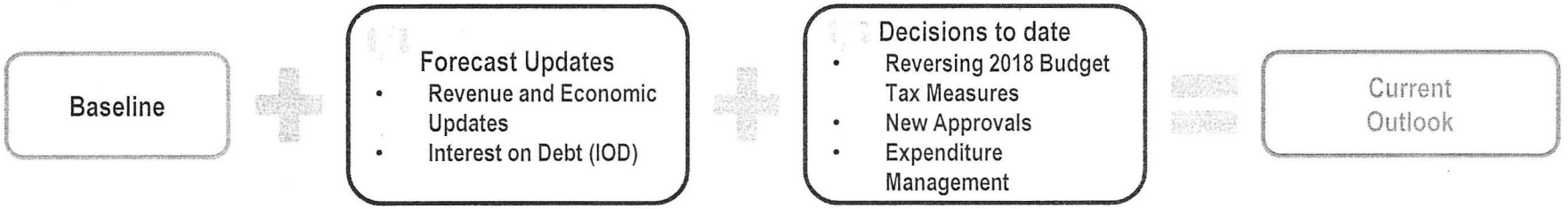


Net Debt-to-GDP (%)	*40.5*			
Prudence Levels				
Contingency Fund	*1.6*	*1.9*	*2.5*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

*Note: 2021-22 is based on the *2018 Budget* recovery plan, which falls outside the range of the medium-term outlook. As a result, projections are not driven by policy decisions or analysis, and therefore may contain differential risk that could underestimate the deficit projection.
Also does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

IMPACTS OF NEW INFORMATION AND RECENT DECISIONS ON THE BASELINE OUTLOOK

Step 2 – Building the Current Outlook



The government has already undertaken a number of actions to achieve savings and efficiencies. Additional expenditure management initiatives and refinements to existing programs will also be made in the coming weeks. In addition, economic and revenue updates have occurred since information was shared with the Commission of Inquiry. Layering on these impacts with the reversal of the 2018 Budget tax measures results in the "current outlook" which reflects known information and decisions.

Revenue Forecast Updates and New Decisions

- Economic growth, the reversal of *2018 Budget* tax measures and other decisions, including the wind down of the Cap and Trade program, have deteriorated the revenue outlook relative to the baseline.

($ Billions)	2018-19	2019-20	2020-21	2021-22
Forecast Updates				
Economic Update – mainly relatively weaker employment, wage, profit and household spending growth	(0.4)	(0.7)	(0.5)	0.3
2016 and Prior year Income Taxes	0.5	—	—	—
Impact of Fair Hydro accounting changes on OPG earnings/Global Adjustment and Hydro One Executive compensation changes	(0.1)	(0.1)	(0.2)	(0.2)
Total Forecast Updates	**0.1**	**(0.8)**	**(0.7)**	**0.1**
Reversal of *2018 Budget* Tax Measures				
Improving Fairness and Transparency of Ontario's PIT (Surtax)	(0.3)	(0.3)	(0.3)	(0.3)
Improving Economic Competitiveness: Ontario Research and Development Tax Credit	0.0	0.0	0.0	0.0
Targeting the Employer Health Tax Exemption to Small Employers	(0.0)	(0.0)	(0.0)	(0.0)
Small Business Limit (does not automatically parallel federal measure)	(0.0)	(0.1)	(0.2)	(0.2)
Reversing 2017 Budget Measure: $4/carton increase in Tobacco Tax	—	(0.1)	(0.1)	(0.1)
Total Reversal of *2018 Budget* Tax Measures	**(0.3)**	**(0.5)**	**(0.5)**	**(0.5)**
Impact of New Decisions – In-Year Approvals & Cap & Trade				
Lower Revenue from Cancelling Cap-and-Trade	(1.5)	(1.9)	(1.7)	(1.7)
Deferral of Driver's Licence and Examination Fee Increases	(0.0)	(0.0)	(0.0)	(0.0)
Community Hubs Appropriation Fund	—	(0.0)	(0.0)	(0.0)
Higher administrative monetary penalties for impaired driving	0.0	0.0	0.0	—
Total Impact of New Decisions	**(1.5)**	**(1.9)**	**(1.8)**	**(1.8)**
Total Revenue Change	**(1.7)**	**(3.2)**	**(2.9)**	**(2.2)**

*Numbers may not add to rounding

Impact of New Investments and Expense Savings

- Program expense changes reflects government decisions that have been approved or are tracking for approval by TB/MBC.

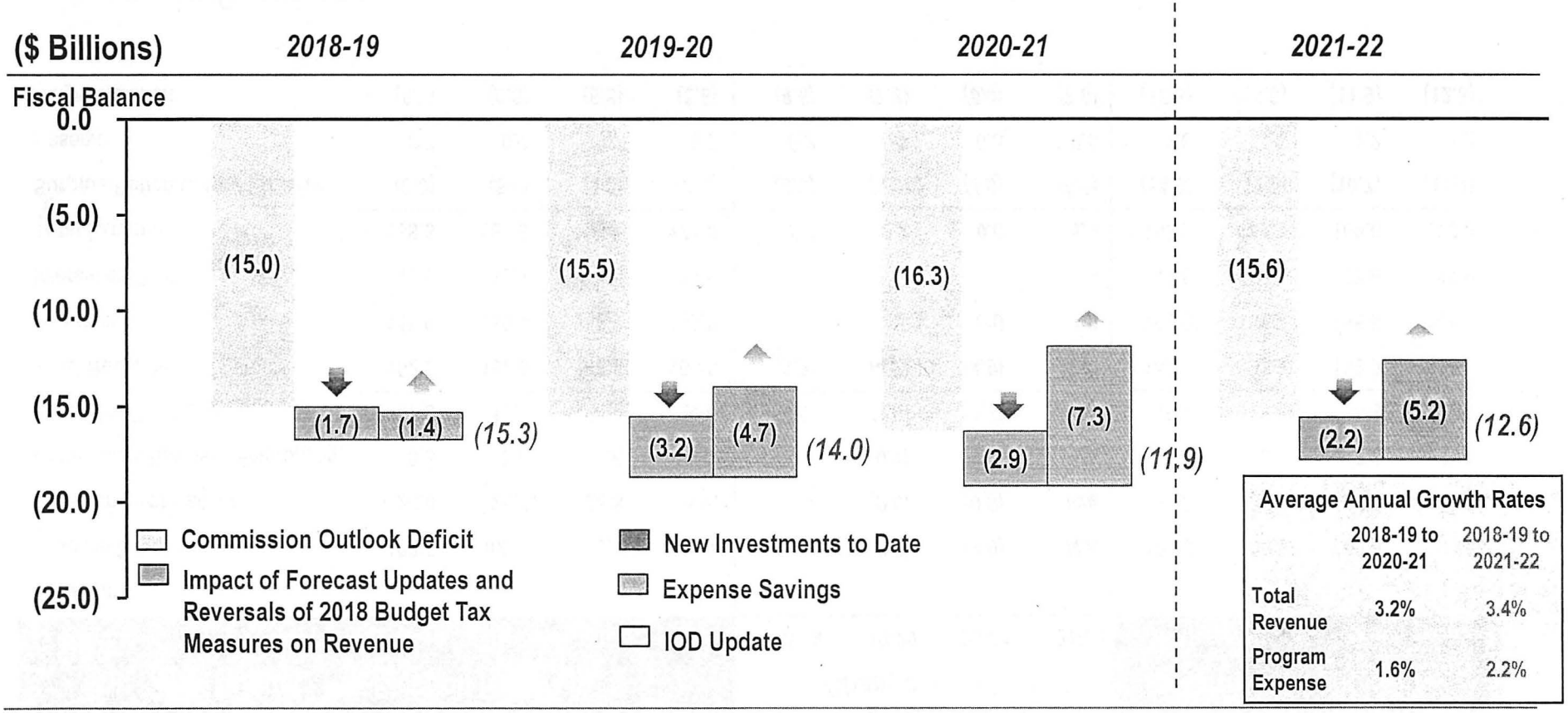
($ Billion)	2018-19	2019-20	2020-21	2021-22
Impact of New Investments – In-Year Approvals				
Emergency Firefighting*	—	—	—	
Resource Revenue Sharing Agreements*	—	—	—	
Total Impact of New Investments – In-Year Approvals	—	—	—	—
Program Expense Savings – In-Year Approvals				
Social Assistance Cost of Living Adjustment (decrease rate for recipients)	(0.3)	(0.6)	(1.1)	
Ontario Prescription Drug and Dental Program (scale back)	(0.0)	(0.3)	(0.5)	
OHIP + to Seniors (scale back)	—	(0.4)	(0.6)	
Child Care Funding Program Adjustments (increase limitations and streamline process)	(0.0)	(0.2)	(1.5)	
Grants for Student Needs (GSN) (repurpose funding)	(0.0)	(0.1)	(0.2)	
All Other Approvals	(0.1)	(0.2)	(0.1)	
Total Program Expense Savings – In-Year Approvals	**(0.5)**	**(1.8)**	**(4.1)**	**(1.2)**
Program Expense Savings – Items Tracking for Approval, including:				
Mental Health & Addiction	(0.1)	(0.1)	(0.2)	
Senior Healthy Homes Credit	—	(0.4)	(0.4)	
Developmental Services	—	(0.3)	(0.4)	
Ontario's R&D Tax Credit - Innovation	(0.0)	(0.0)	(0.0)	
All Other Tracking	(0.0)	(0.6)	(0.5)	
Total Program Savings – Items Tracking for Approval	**(0.1)**	**(1.6)**	**(2.1)**	**(1.5)**
Preliminary Allocations Adj. Roll Over Base Year Impacts	**(0.0)**	**0.0**	**0.0**	**(1.6)**
Estimated Expense Impact of Winding-Down Funded out of Cap-and Trade	**(0.7)**	**(1.3)**	**(1.1)**	**(0.9)**
Total Program Expense Change including Cap & Trade	**(1.4)**	**(4.7)**	**(7.3)**	**(5.2)**

*Assumes item will be offset from contingency fund

*Numbers may not add to rounding

Impact of New Decisions/Information Result in Current Outlook

- The current outlook builds off of the Commission's outlook (grey bar), and layers on approvals to date (both expenditure management decisions and decisions to reverse *2018 Budget* measures), as well as other actions.



Net Debt-to-GDP (%)	*40.5*			
Prudence Levels				
Contingency Fund*	*1.5*	*1.8*	*2.2*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

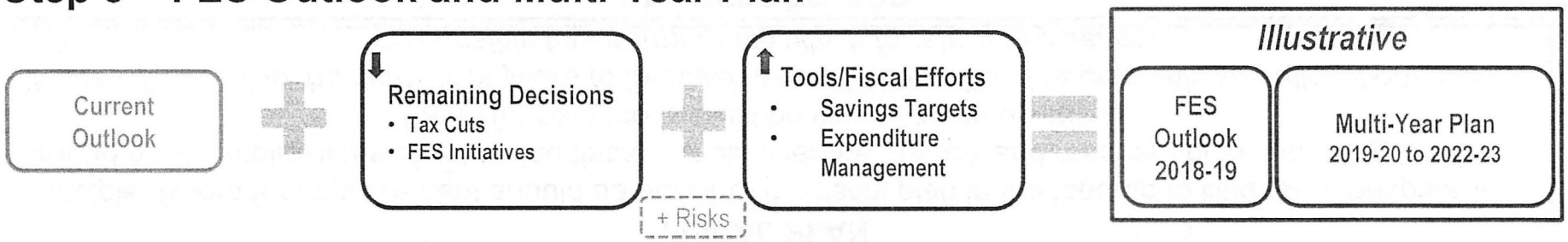
*Contingency fund level reflects in-year approval changes

Crosswalk from *2018 Budget/Pre-Election Report* to the Current Outlook

2018 Budget / Pre-Election Report (A)					Change (B) – (A)				Current Outlook (B)			
($ Billions)	**18-19**	**19-20**	**20-21**	**21-22**	*18-19*	*19-20*	*20-21*	*21-22*	**18-19**	**19-20**	**20-21**	**21-22**
Revenue												
Taxation Revenue	103.6	108.1	112.4	N/A	*(1.7)*	*(2.6)*	*(2.9)*	*N/A*	101.9	105.5	109.6	N/A
Government of Canada	26.0	25.7	26.8	N/A	*-*	*(0.0)*	*(0.0)*	*N/A*	26.0	25.7	26.8	N/A
Government Business Enterprises	5.3	6.0	6.6	N/A	*(0.1)*	*(0.1)*	*(0.2)*	*N/A*	5.2	5.9	6.4	N/A
Other Non-Tax Revenue	17.6	17.7	18.0	N/A	*(1.5)*	*(1.9)*	*(1.7)*	*N/A*	16.1	15.8	16.3	N/A
Total Revenue	**152.5**	**157.6**	**163.8**	**169.5**	***(3.2)***	***(4.7)***	***(4.9)***	***(4.7)***	**149.2**	**152.9**	**159.0**	**164.9**
Programs	145.9	150.4	155.8	159.5	*5.1*	*2.2*	*0.0*	*1.9*	151.0	152.7	155.8	161.4
Interest on Debt	12.5	13.1	13.8	14.9	*-*	*-*	*-*	*-*	12.5	13.1	13.8	14.9
Total Expense	**158.5**	**163.5**	**169.6**	**174.4**	***5.1***	***2.2***	***0.0***	***1.9***	**163.5**	**165.7**	**169.6**	**176.3**
Surplus/Deficit Before Reserve	**(6.0)**	**(5.9)**	**(5.8)**	**(4.9)**	***(8.3)***	***(6.9)***	***(4.9)***	***(6.5)***	**(14.3)**	**(12.9)**	**(10.7)**	**(11.4)**
Reserve	0.7	0.7	0.7	0.7	*0.3*	*0.4*	*0.5*	*0.5*	1.0	1.1	1.2	1.2
Surplus/Deficit	**(6.7)**	**(6.6)**	**(6.5)**	**(5.6)**	***(8.6)***	***(7.3)***	***(5.4)***	***(7.0)***	**(15.3)**	**(14.0)**	**(11.9)**	**(12.6)**

ILLUSTRATIVE SCENARIOS FOR PLANNING

Step 3 – FES Outlook and Multi-Year Plan



In order to land the 2018 FES outlook and the multi-year plan, a number of choices exist which include impacts that deteriorate the outlook (e.g. the timing and roll out of any potential tax cuts) and those that improve the outlook (e.g., a savings target or savings from LBL review). The illustrative scenarios presented on the following slides represent a range of potential fiscal outlooks based on a range of choices.

Fiscal Building Blocks and Principles

- The fall fiscal planning process provides an opportunity to establish targets for key fiscal anchors moving forward over the mandate. The planning process also involves considerable choices for the government about its fiscal objectives and reporting plans.

FISCAL PLAN

Principle: Room for improvement should be built into the fiscal plan in the lead up to Budget. Transparency around policy implications of achieving fiscal targets over the outlook and recovery plan, including the time frame for balance, should be clearly communicated.

Choices: Determine the number of years to forecast, as well as key fiscal targets, ministry allocations, and a responsible timeframe within which to return to balance.

NET DEBT-TO-GDP

Principle: Ensure Ontario's Net Debt-to-GDP is on a declining and fiscally sustainable track.

Choices: Determine an appropriate target for net debt-to-GDP over the medium-term.

REVENUE

Principle: Ground revenue forecast in the economic outlook for Ontario and globally as well as government policy direction.

Choices: Determine the scope for revenue measures, including:

- *Tax measures*
- *Non-tax revenue*

EXPENSE

Principle: Prioritize spending on investments that support the government's priorities while maintaining an efficient/effective use of resources that generate outcomes.

Choices: Determine the scope for expense measures, including:

- *Undertaking additional transformative initiatives*
- *Line-by-Line/Additional Efficiency targets*
- *Interest on Debt Savings*
- *Program Expense Average Annual Growth Rates*

PRUDENCE

Principle: Build enough prudence in plan to allow for unforeseen developments, known impacts and risk profile taken on in plan. *Choices: Consider appropriate level of Cfund and reserve.*

Building the FES Outlook and Multi-Year Plan

- Developing the fiscal architecture to inform the FES outlook and the framework for multi-year planning/ministry allocations will require consideration of both expected roll-out of signature platform commitments, as well as a potential expenditure management strategy to find efficiencies – all the while finding a way to ensure revenue grows faster than expense over a reasonable and prudent timeline towards balance.
- Scenarios illustrated on the placemat (separate handout) provide a baseline for decision-making for FES and multi-year planning, and are based on a core set of assumptions that are subject to review, refinement, new information, and decision-making.
- Government should consider a multi-year planning horizon (e.g. five-year forecast) for both roll-out of signature initiatives and expenditure management/allocations to ensure fiscal objectives can be met.

Fiscal Effort/ Savings Opportunities

- ↑ Savings decisions where more work is required to understand fiscal impact
- ↑ Outcomes from the Line-by-Line review will inform additional savings / establishment of savings targets. Choices need to be made on how to allocate these efficiencies across Ministries
- ↑ Re-incorporating Year-End savings targets
- ↑ Determine how to achieve an additional $2 billion in savings in 2018-19
- ↑ Accounting adjustments including review of pension acct'g for future years
- Prudence levels, including resetting contingency fund levels and resetting the reserve.

Remaining Decisions/Updates

- ↓ Potential impact of tax cuts/changes that are currently under consideration
- ↓ New investments being considered through the FES process could put upward pressure on the expense outlook.
- ↓ Ministries have identified high-likelihood risks through Q1 reporting *(up to $1.3 billion by 2020-21).*
- ↓ Impact of interest on debt
- ↓ Any adjustments to pension impacts in 2018-19 and beyond

Fiscal Planning Next Steps and Outstanding Key Decisions

Fall Economic Statement

- Determine 2018-19 fiscal target to publish in FES (at a level below the Commission's deficit of $15 billion)
- Approach to timing and roll-out of tax cuts and other new investments for 2018-19 within fiscal target – may need to provisionally account for the impact of tax cuts to be introduced in 2019 Budget.
- Establish reasonable 2018-19 year-end savings target based on expectations around robust in-year expenditure management to ensure pressures are managed and savings can be realized to support achievement of target.

Allocations

- Consider setting allocations over a longer planning horizon (e.g., four to five years) to provide full integration of expense forecast and government's mandate
- Determine which line by line review items to build directly into allocations
- Determine sector growth rates, especially for large ministries (e.g. health)
- Establish additional efficiencies and expenditure management targets on a multi-year basis and allocate them across Ministries

Multi-year outlook and 2019 Budget

- Establish fiscal targets for out years and determine balance date
- Determine approach to recovery plan that is based on policy decisions and robust analysis

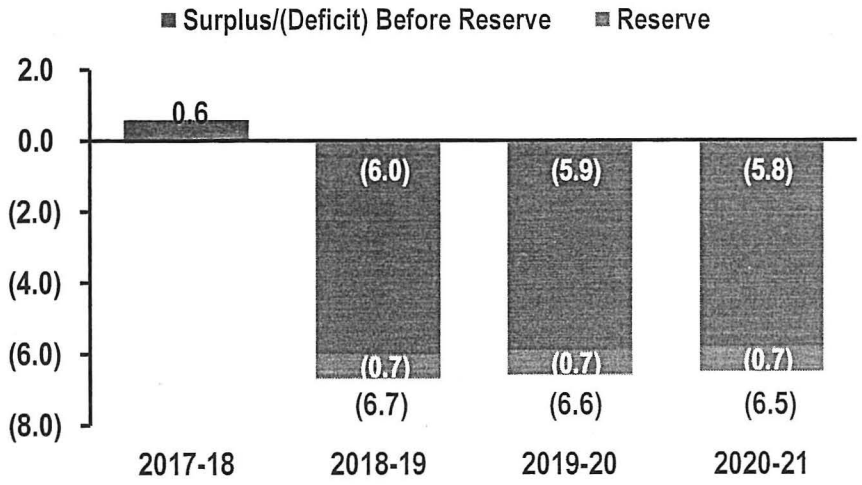
APPENDIX

Recapping the *2018 Budget / Pre-Election Report* Fiscal Architecture

- The *2018 Budget* and Pre-Election Report projected deficits over the next three fiscal years.
- The *2018 Budget* also included a plan that projected balance by 2024-25.

2018 Budget / Pre-Election Report Fiscal Targets

Fiscal Balance
($ Billions)



	2017-18	2018-19	2019-20	2020-21
Net Debt-to-GDP (%)	37.1	37.6	38.2	38.6

Average Annual Growth Rates 2018-19 to 2020-21

Revenue: 3.7%
Program Expense: 3.3%.

Overview of Medium-Term Outlook

- Forecast for **rising revenues** driven by private sector forecasts for **modest sustained economic growth**.
  - Significant economic and revenue **risks**, including those related to trade with the United States, rising interest rates and slowing household spending.
  - The *2018 Budget* outlook included revenue measures such as changing the Personal Income Tax brackets and surtax.
- **Program spending was projected to increase significantly** in each year over the medium-term primarily **due to a number of new initiatives**, as well as demand pressures from existing programs.
  - New initiatives over the medium-term outlook totaled $13.3 billion, including $2.1 billion in 2018-19, $4.2 billion in 2019-20 and $7.0 billion in 2020-21 (note: excludes increases made to existing base spending to keep pace with cost drivers, technical updates, etc.).
- The Auditor General's recommended accounting adjustments for electricity refinancing and two public sector pension plans were not reflected in the *2018 Budget* and Pre-Election Report outlook (potential fiscal impact of $5.0 billion in 2018-19).

Items Tracking – Expense Estimates

($ Billions)	2018-19	2019-20	2020-21	2021-22
Heavy Lifting Remaining – Initiatives on hold – amount of spending to be determined.				
Correctional Services Transformation: Legislative Compliance	(0.1)			
Additional Supports for Apprentices and Employers	(0.1)			
Autism	(0.1)			
All Other Tracking	(1.2)			
Total Initiatives on Hold	**(1.5)**			
Decision made. Savings to be determined				
Expenditure management levers				
Freeze non-bargaining management compensation				
BPS executive compensation				
OHIP+ for children and youth – refine program eligibility requirements				
Université de l'Ontario française.				
Total Expense Estimate	**(1.5)**			

Items Tracking – Revenue + Expense Risks

- Risks that could impact the outlook are outlined below.

Revenue Risks ($ B)	2018-19	2019-20	2020-21	2021-22
Hydro One Ltd. (OEB Rate Decision)	(0.4)	—	—	—
Revised Economics	+/-$0.5	—	—	—
2017 PIT assessment data	+/-$1.8	—	—	—
2017 CIT assessment data	+/-$1.3	—	—	—
HST Entitlement Update	+/-$0.3	—	—	—
Monthly Own-Source Tax collection data	N/A	—	—	—
OLG and LCBO Net Income	+$0.2	—	—	—
Total Revenue Risks	**TBD**	—	—	—

- Financial impact of program expense risks identified by ministries through Q1 reporting are listed below.

Expense Risks ($ B)	2018-19	2019-20	2020-21	2021-22
Q1 Risks - High Likelihood Risks	0.1	1.1	1.3	0.4
Total Expense Risks	**0.1**	**1.1**	**1.3**	**0.4**

Potential Fiscal Impact of Cap and Trade Wind-Down

- A **preliminary estimate** of the potential fiscal impact of winding down the cap and trade program **ranges from $0.6 billion to $0.8 billion** per fiscal year.
  - The loss of revenue is greater than the expense savings as some of the planned expenditures were to be amortized. Expense items remaining in-plan primarily include the electrification of the Regional Express Rail, Green Ferries and High Speed Rail planning dollars.
  - Ministries have also been directed to report back to Treasury Board/Management Board of Cabinet by October with a status update on wind-down costs.

Potential Fiscal Impact of Cap and Trade Wind-Down

	2018 Budget / Pre-Election Report (A)			*Change/ Fiscal Impact** (B) – (A)			Resulting Cap and Trade Fiscal Assumptions (B)		
$ Millions	**2018-19**	**2019-20**	**2020-21**	***2018-19***	***2019-20***	***2020-21***	**2018-19**	**2019-20**	**2020-21**
Revenue	1,979	1,923	1,749	*(1,507)*	*(1,923)*	*(1,749)*	472	–	–
Expense	1,226	1,301	1,105	*(693)*	*(1,301)*	*(1,105)*	534	–	–
Balance – Fiscal Benefit/(Deterioration)	752	622	644	*(815)*	*(622)*	*(644)*	(62)	–	–

* Assumes no fiscal impact associated with capital asset investments.

Other Findings of the Commission

- [The Commission recommended that the government undertake a review of the *Fiscal Transparency and Accountability Act*, 2004 (FTAA) to improve its effectiveness in guiding government fiscal planning and reporting
    - For example, the Commission suggests that increasing transparency around policy implications of achieving balanced budgets could help Ontarians understand the transformational changes, service reductions, or new revenue-raising capacity that might be necessary to achieve balance, and therefore make the requirement for a recovery plan in FTAA more meaningful.
- Set a long-term goal of restoring the Province's AAA credit rating
- Expand Ontario's Long-Term Report on the Economy to include additional analysis on fiscal sustainability and set out the fiscal implications of current trends and future risks.

Ontario

Supplementary Information on Revenue Forecasting

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September 2018

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Office of Economic Policy

Tabled

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Overview of the Revenue Forecasting Process

- The revenue outlook is based on the best use of available information, including the current economic outlook and current policy frameworks and decisions.
  - The Revenue Forecasting Unit works with other MoF Divisions as well as other ministries to incorporate latest information into the revenue forecast.

- The Taxation Revenue forecast is based on tax receipts to date, available tax assessment information, Federal Finance entitlement estimates for HST, current economic forecasts and current tax policy decisions.

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- The forecast for Government of Canada Transfers is largely based on the current set of funding formula and Federal-Provincial agreements.
  - This include forecasts for the major federal transfers: Canada Health Transfer, Canada Social Transfer and Equalization payments.

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- The forecast for Net Income from Government Business Enterprises is based on the latest information from the enterprises. These include Ontario Power Generation Inc., Hydro One Ltd., the Liquor Control Board of Ontario, the Ontario Lottery and Gaming Corporation, and Ministry of Finance's estimate of Ontario Cannabis Retail Corporation revenue.

- The forecast for Other Non-Taxation Revenues is based on input from all government ministries and agencies, hospitals, school boards, and colleges, covering hundreds of individual revenue sources that are combined into broad categories for revenue reporting purposes.

Forecast for Ontario Income Taxes Under the Tax Collection Agreement (TCA)

- Ontario income taxes including the personal income tax, Ontario health premium and corporations income tax are administered by the federal government under a Tax Collection Agreement (TCA).

- Revenue and information flows to the Province are detailed in the agreement.

- Final entitlements for the immediate past year are not known until tax returns are processed during the current and next calendar years.

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- The federal Department of Finance provides year-to-date tax assessment results for the previous tax year and prior years each month, from June of the current year and up to January next year in a report called the Tax Sharing Statement.

- For instance, personal income tax (PIT) and corporate income tax (CIT) returns for the 2017 tax year are being assessed largely during 2018, along with some amounts assessed or reassessed in respect of 2016 and prior years. Monthly information on these tax assessments began to flow to the province in late June 2018 and will continue through to January 2019.

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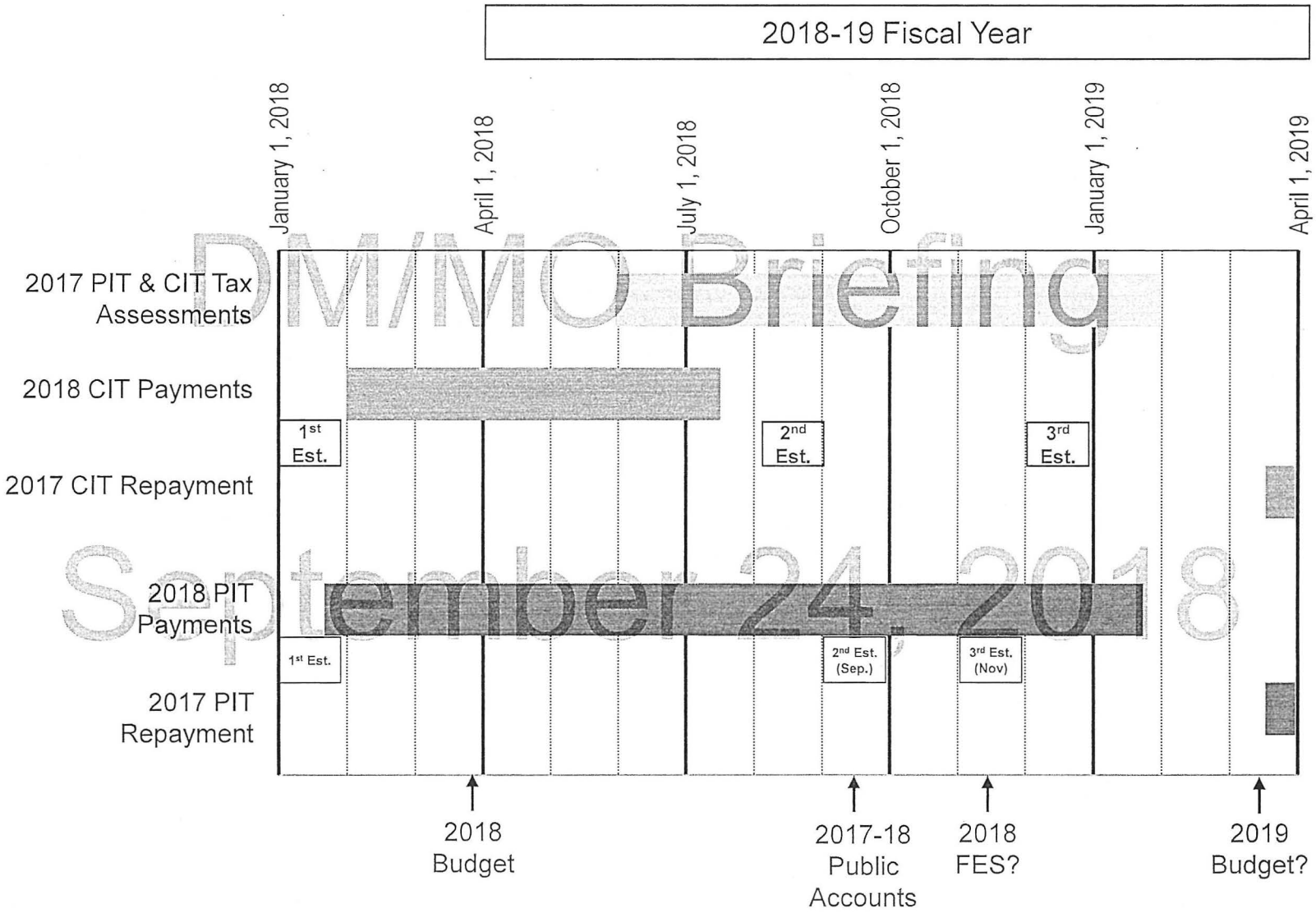
  - Ontario's final PIT and CT revenue entitlements for the 2017 tax year will be based on taxes assessed up to December 31, 2018. This information will largely be known late in January 2019 and will be finalized in March 2019.

  - A reconciliation payment/repayment is then made on the last business day of March 2019 to account for the difference between 2017 tax year instalment payments already received (based on estimates) and the final 2017 entitlement.

- At time of the Ontario Budget, there is no tax assessment information available for the interim fiscal year.

Information Flows for PIT and CIT under TCA*



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*Ontario Health Premium information flows correspond to PIT flows.

Personal Income Tax and Ontario Health Premium Forecasting Process

- The PIT and OHP revenue is derived based on a Macro-econometric model, which is the starting point and provides the basis for the PIT and OHP revenue forecasts presented in the Ministry of Finance's publications

- There are several satellite models that feed into the main Ontario PIT Macro-econometric Model. The models uses historical data from taxable returns - on the aggregate amounts filled out by Ontarians for each line of the Canada T1 General Tax Return - utilizing economic, demographic and other inputs (i.e.: statutory tax parameters etc.) to forecast taxable income components, deductions from income and non-refundable federal and Ontario credits by employing the use of econometric equations and regression analysis.

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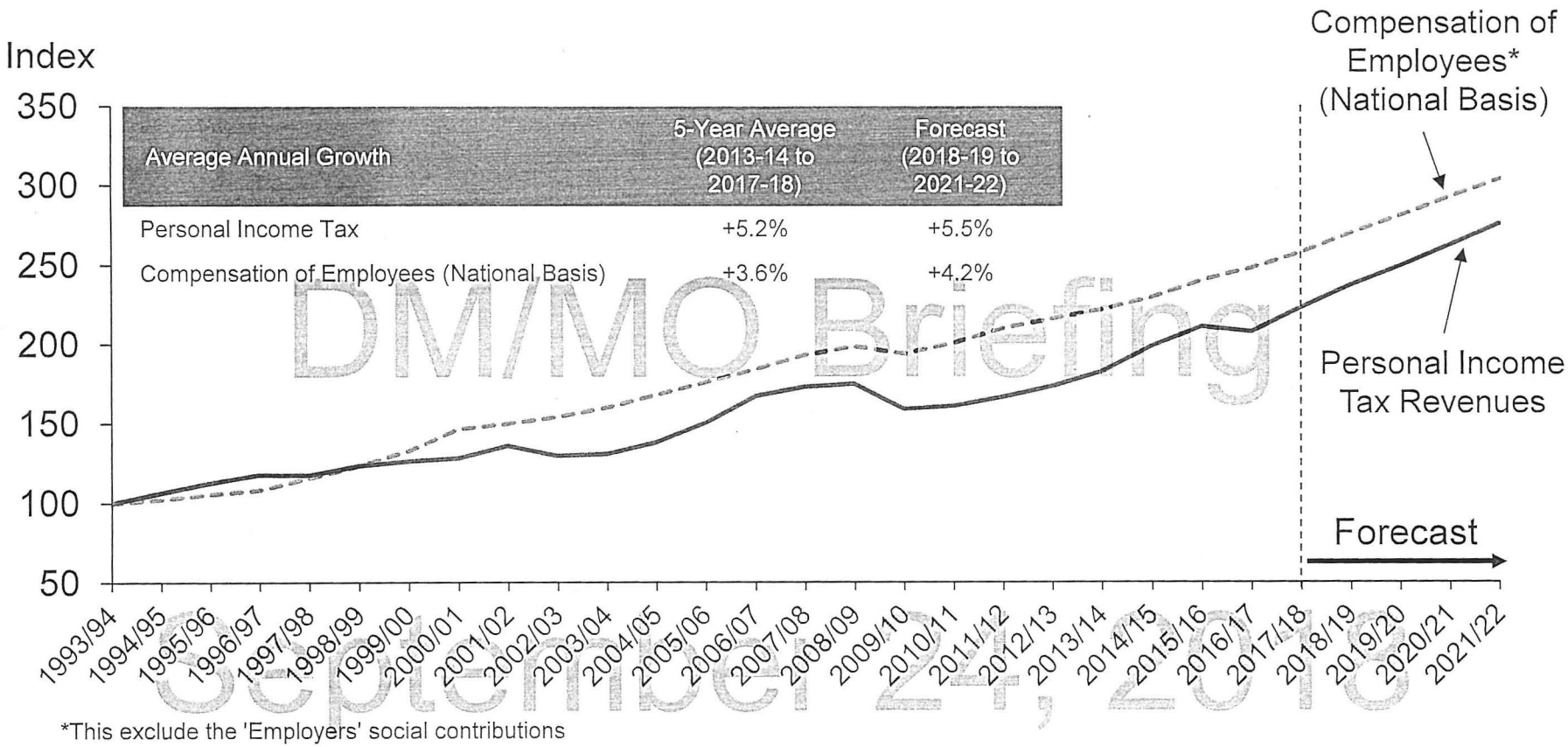
- Typically the forecast includes incremental portion of past and present Budget measures.

Personal Income Tax Revenues and Compensation of Employees (National Basis)



Average Annual Growth	5-Year Average (2013-14 to 2017-18)	Forecast (2018-19 to 2021-22)
Personal Income Tax	+5.2%	+5.5%
Compensation of Employees (National Basis)	+3.6%	+4.2%

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*This exclude the 'Employers' social contributions

- Personal income tax revenues have grown, on average, at a slightly slower pace than wages and salaries.
  - In general, PIT would be expected to grow slightly faster than wages and salaries due to the progressive nature of the tax structure.
  - The slower pace of growth likely reflects the impact of tax cuts over this period.

Personal Income Tax and Ontario Health Premium Revenue Risks

- Variances in tax return processing during 2018, both for 2017 and for revenues in respect of prior years, affects the base upon which growth is applied in forecasting revenues.

- Changes in growth rate of economic drivers, in particular compensation of employees.

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- In-year Federal and Provincial tax policy changes.

- An income distribution different from the one assumed over the forecast period.

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- Tax planning behaviour of individuals in response to policy measures. For example, the federal government have reported that their PIT revenues decreased by $1.2 billion, or 0.8 per cent between 2015–16 and 2016–17, stating that this "largely [reflects] the impact of tax planning by high-income individuals to recognize income in the 2015 tax year before the new [federal] 33 per cent tax rate came into effect in 2016. This behaviour raised revenues in 2015–2016 but lowered them in 2016–2017."

Corporations Tax Forecasting Process

- The CT forecast can be broken down into two sources; federally administered Corporate income Tax and Provincially Administered CT which includes insurance Premium tax and pre 2009 Objections and Appeals.

- The federally administered portion of CIT is derived based on the econometric model and actual tax assessments.

  – Projections for PSAB-basis federally administered CIT is based on OEP's assessment basis econometric CT model.

- Projections for Insurance Premium tax is assumed to grow in-line with projections of Nominal GDP growth.

- Projections for PSAB-basis pre 2009 Objections and Appeals in 2017-18 and beyond are assumed to be equal to an average of historical experience.

- Typically the forecast includes incremental portion of past and present Budget measures.

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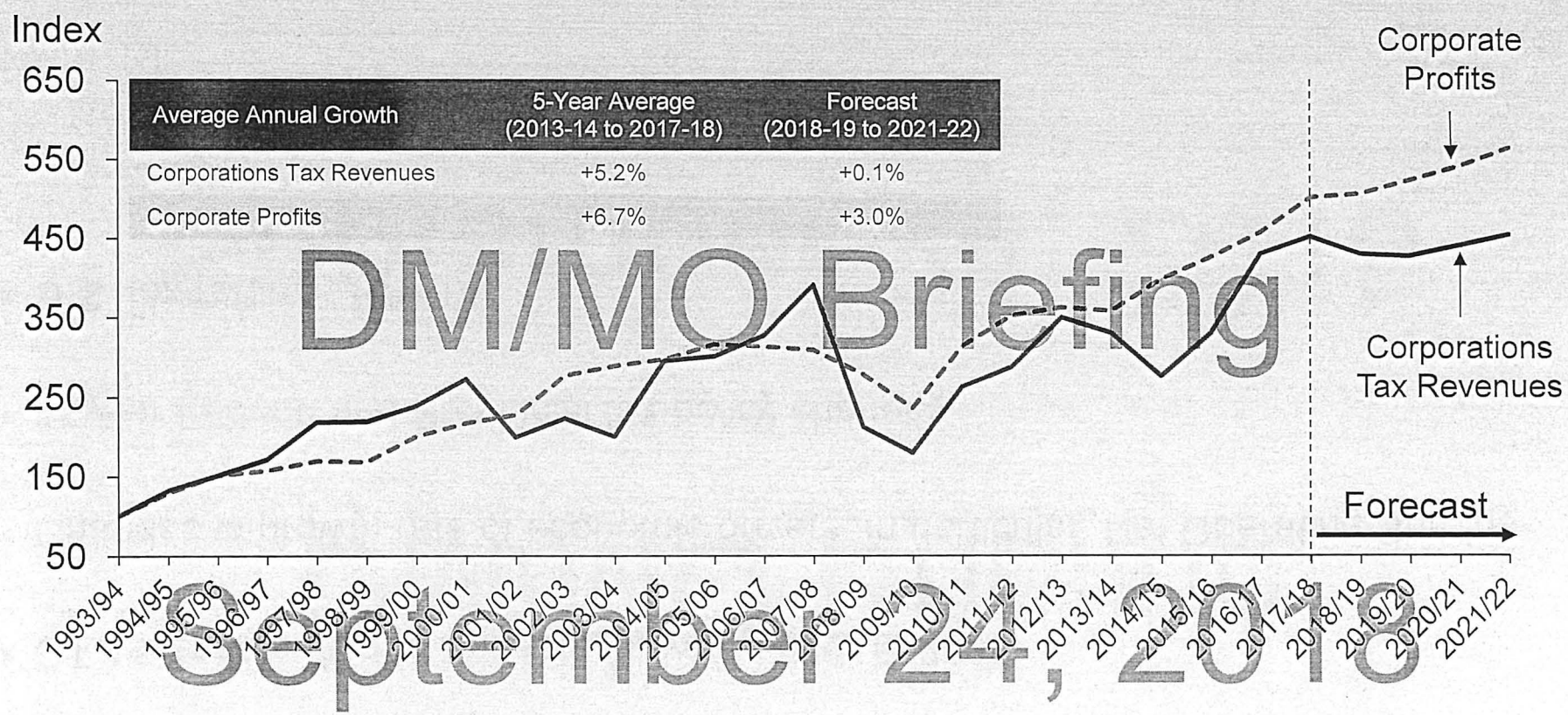
Corporations Tax Revenue and Ontario Corporate Profits

Average Annual Growth	5-Year Average (2013-14 to 2017-18)	Forecast (2018-19 to 2021-22)
Corporations Tax Revenues	+5.2%	+0.1%
Corporate Profits	+6.7%	+3.0%



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- Corporations taxes have grown at about the same pace as corporate profits over the long term.
  - In general, corporate profits and corporations tax revenues are very volatile, reflecting a more concentrated tax base compared with other tax sources, as well as the application of tax rules such as loss carry forwards and carry backs.
  - Over the short term, this volatility may mask the impact of policy measures.

Corporations Tax Revenue Risks

- Variances in tax return processing during 2018, both for 2017 and for revenues in respect of prior years, affect the base upon which growth is applied in forecasting revenues.
- CT Assessments and Appeals for years prior to 2009.
- Changes in growth rate of economic drivers, in particular, Net Operating Surplus.
- In-year Federal and Provincial tax policy changes.
- U.S. tax reform / NAFTA.

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Harmonized Sales Tax Forecasting Process

- Ontario's Harmonized Sales Tax (HST) is administered by the federal government under the Comprehensive Integrated Tax Coordination Agreement between the Government of Canada and the Government of Ontario (CITCA). Revenue and information flows to the province are detailed in the agreement.

- HST entitlements are based on a framework that allocates the combined GST and HST revenue pool among the federal government and participating provinces. As the federal government is unable to identify sales tax receipts either by type (GST or HST) or by region, provincial and federal shares of the total revenue pool must be estimated.

  - Jurisdictional shares are estimated using various economic data as it becomes available, including Statistics Canada's input-output tables and data from the Provincial Economic Accounts.

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- HST entitlements are revised as estimates of the revenue pool are updated, or as estimates of jurisdictional shares are revised based on new economic information.

  - Due to reassessments and lags tax in availability of economic information, HST entitlements are not finalized until 6 ½ years from the start of an entitlement year.

Harmonized Sales Tax Forecasting Process

- During the year, the federal government makes HST instalment payments to participating provinces based on estimated entitlements for the year. Adjustment payments will continue to flow over the next 6½ years as estimates for the entitlement year are updated. For example, in regard to the 2018 tax year:

  - The First Estimate for 2018 was provided in December 2017 based on the 2016 PEA data, 2014 I/O and Conference Board of Canada (CBoC) growth rates.

  - The 2018 Second Estimate was provided in May 2018 based on updated (May 2018) CBoC growth rates.

  - The 2018 First Prior-Year Adjustment, or Third Estimate, will be provided in December 2018 based on the 2017 PEA data, 2015 I/O and updated (Oct 2018) CBoC growth rates.

  - Prior-Year adjustments will be provided each subsequent December with the Sixth Prior-year adjustment or, Eighth Estimate being provided in December 2023 and the Final, or Ninth estimate being provided in June 2024.

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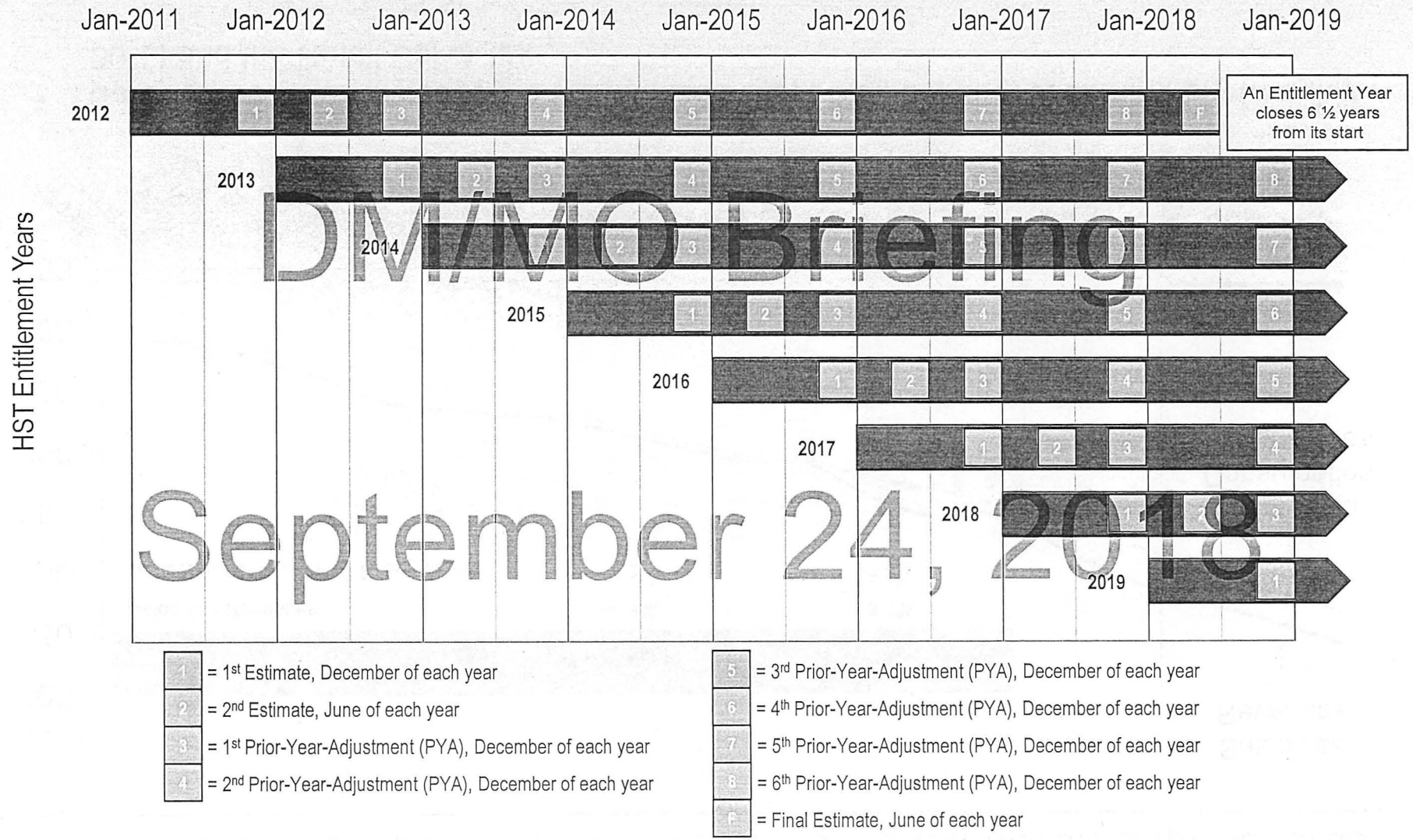
HST Information Flow Under CITCA: Federal Estimates



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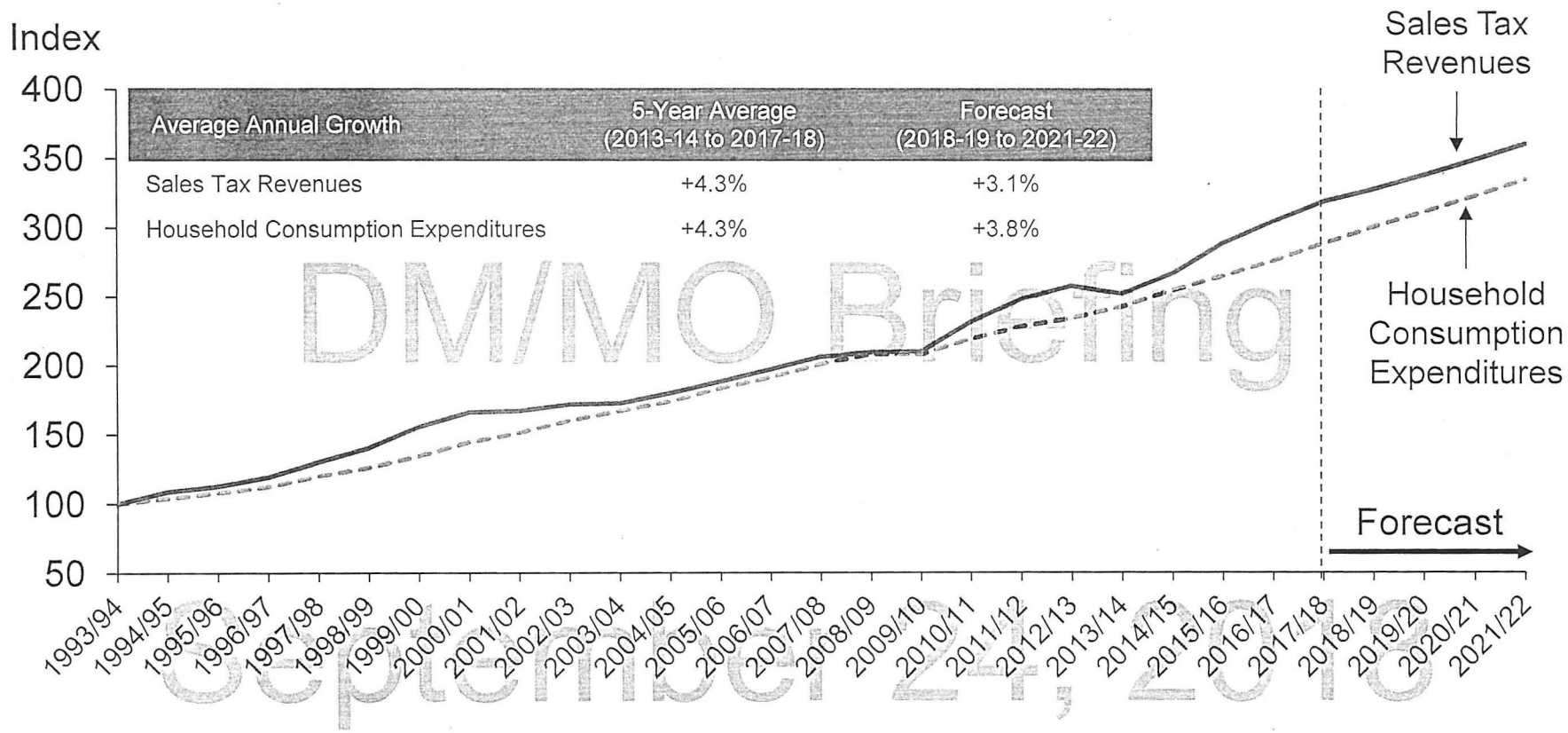
Sales Tax Revenue and Ontario Household Consumption Expenditures



Average Annual Growth	5-Year Average (2013-14 to 2017-18)	Forecast (2018-19 to 2021-22)
Sales Tax Revenues	+4.3%	+3.1%
Household Consumption Expenditures	+4.3%	+3.8%

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- Sales tax revenue includes the Harmonized Sales Tax, the largest component (roughly 90%) and the Retail Sales Tax.

- Sales tax revenue has grown roughly in-line with consumption expenditure.

Sales Tax Revenue Risks

- The HST revenue pool data for 2017 based on actual collections suggests that Ontario's entitlement will likely be about $400 million higher than assumed in the 2018 Budget.
  - The higher 2017 base will have carry forward impacts over the forecast period. In addition, with the closure of the 2017-18 Public Accounts, the higher 2017 base will be credited to 2018-19, resulting in a double-up impact in that year.
  - The 2017 revenue pool is still evolving.
- Release of the 2017 PEA and 2015 I-O data will affect Ontario's share of the HST revenue pool.
- Future economic forecast updates for 2018 and beyond will affect the growth rates to apply to Ontario's 2017 entitlement.

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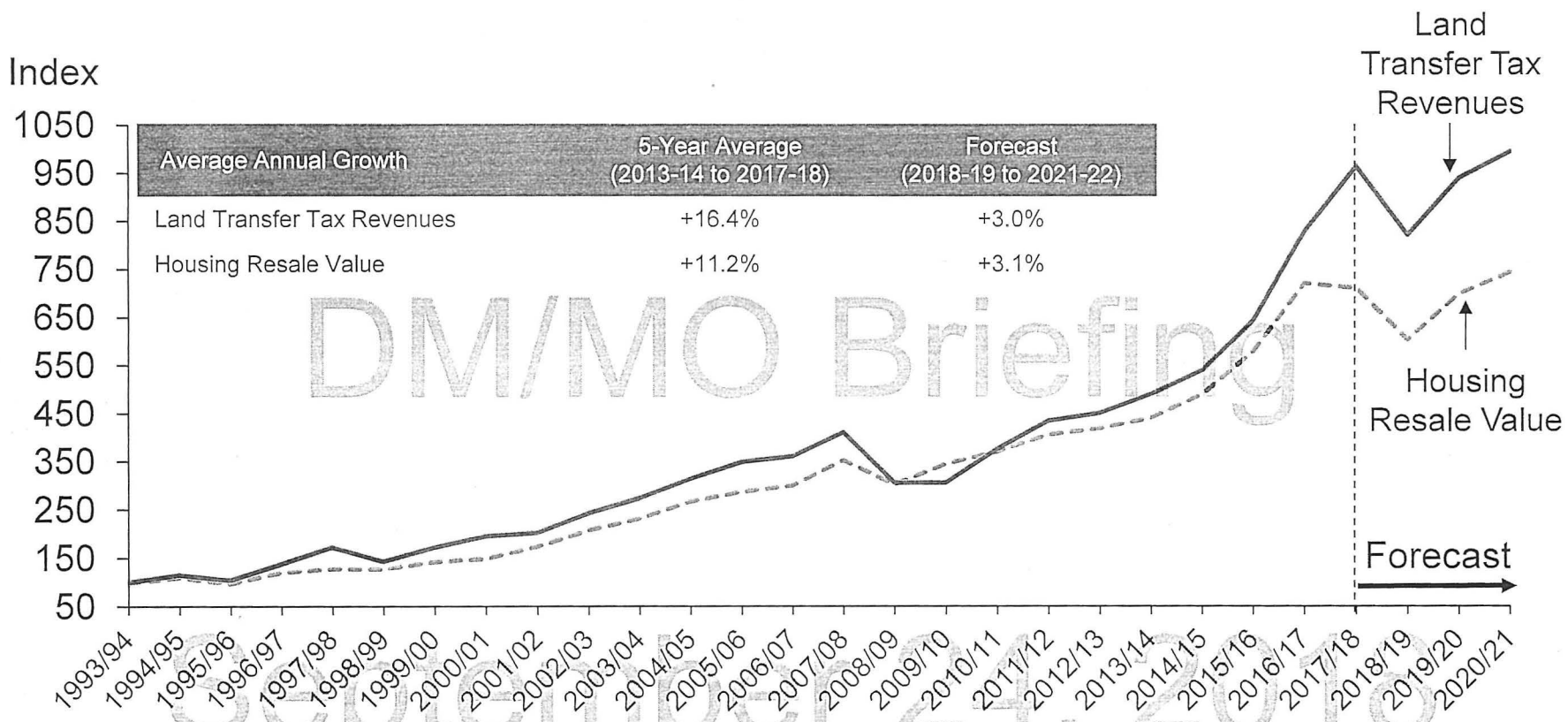
Land Transfer Tax and the Housing Market



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- Over the last five years, Land Transfer Tax (LTT) revenue grew by 16.4 per cent annually, faster than any other tax.
- The LTT revenue is assumed to grow in line with the value of housing resales, specifically, the average resale price and number of resales. The gap in recent years was due to the growing dominance of higher-valued properties and introduction of a new tax bracket for properties worth $2M and above.
- The Ontario housing market is currently undergoing a period of correction under pressures from both federal and Ontario measures to cool an overheated market.

Ontario-Administered Taxes Forecasting Process

- Ontario-administered tax revenue accounts for about 20 per cent of total tax revenues.
  - This includes Employer Health Tax, Land Transfer Tax, Tobacco Tax Gasoline Tax, Fuel Tax, Beer and Wine Tax, Mining Tax, etc.
  - It does not include Education Property Tax (5% of tax revenue) which is collected by municipalities or electricity sector Payments-in-lieu of Taxation (1% of tax revenue) which are consolidated through the Ontario Electricity Financial Corporation.
- During the year, information on cash receipts is received each business day.
- Monthly cash receipts data provide insight into current economic and revenue performance.
- Year-to-date information is incorporated into the revenue forecast.

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Federal Transfers

Key Government of Canada Transfers

Canada Health Transfer (CHT)

Canada Social Transfer (CST)

Equalization

Infrastructure

Labour Market Agreements

Social Housing

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Forecasting process, key assumptions, and risks

- The forecast for Government of Canada transfers is based on existing federal-provincial funding arrangements.
- The forecast for CHT, CST & Equalization is prepared using in-house models. The rest of the federal transfers are provided by government ministries.
- Federal transfers are projected to increase at an average annual rate of 1.5 per cent over the forecast period, largely reflecting projected increase in CHT and CST and funding for labour market programs.
- The forecast also assumes phase 2 Federal infrastructure programs flow through and estimated federal funding for Home and Community Care and Mental Health and Addictions Services.
- Key risks to Federal Transfer:
  - Federal transfers are subject to ongoing federal-provincial negotiations and federal funding decisions, E.g., Low Carbon Economy Leadership Fund and finalizing funding for Home and Community Care and Mental Health and Addictions Services.

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Government Business Enterprises

Government Business Enterprises (GBE)

Liquor Control Board of Ontario (LCBO)

Ontario Lottery and Gaming Corporation (OLG)

Ontario Power Generation Inc. (OPG)

Hydro One Ltd. (HOL)

Ontario Cannabis Retail Corporation (OCRC)

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Forecasting process, key assumptions, and risks

- The outlook for GBEs is based on Ministry of Finance estimates of net income for Hydro One & OCRC as well as information provided by OPG, LCBO and OLG.
- Overall revenue from GBEs is projected to increase at an average annual rate of 11.6 per cent, reflecting higher overall net income from GBEs.
- Key risks to GBEs net income:
  - OEB decision on Hydro One Differed Tax Asset (sharing tax savings with ratepayers) ($420M) - In 2018-19 but could fall in 2017-18. An OEB decision is pending.
  - OEB decision on OPG net income from switching from accrual based to cash based accounting for Pension and Other Pension Benefits ($600M) – This is considered a low risk and an OEB decision is pending.
  - Upside risk of $325M to OPG net income reflecting its Motion to Review an OEB decision which made its new regulated rates effective June 1, 2017 rather than January 1, 2017. An OEB decision is pending. Timing is uncertain.
  - Potential risk from accounting change to OPG net income related to Global Adjustment Refinancing/Fair Hydro Plan (AG and Commission recommendation).
  - Electricity sector (Ontario Power Generation Inc. and Hydro One Ltd.) revenues sensitive to market prices, demand output mix, regulatory decisions.
  - OLG and LCBO $0-$200M average variance over the past 10 years.

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Other Non-Tax Revenues

Key Other Non-Tax Revenues (Other NTR)

Vehicle and Driver Registration Fees

Sales and Rentals

Reimbursements

Royalties

Power Supply Contract Recoveries

Net Reduction of Power Purchase Contract Liability

Fees, Donations and Other Revenues from Hospitals, School Boards and Colleges

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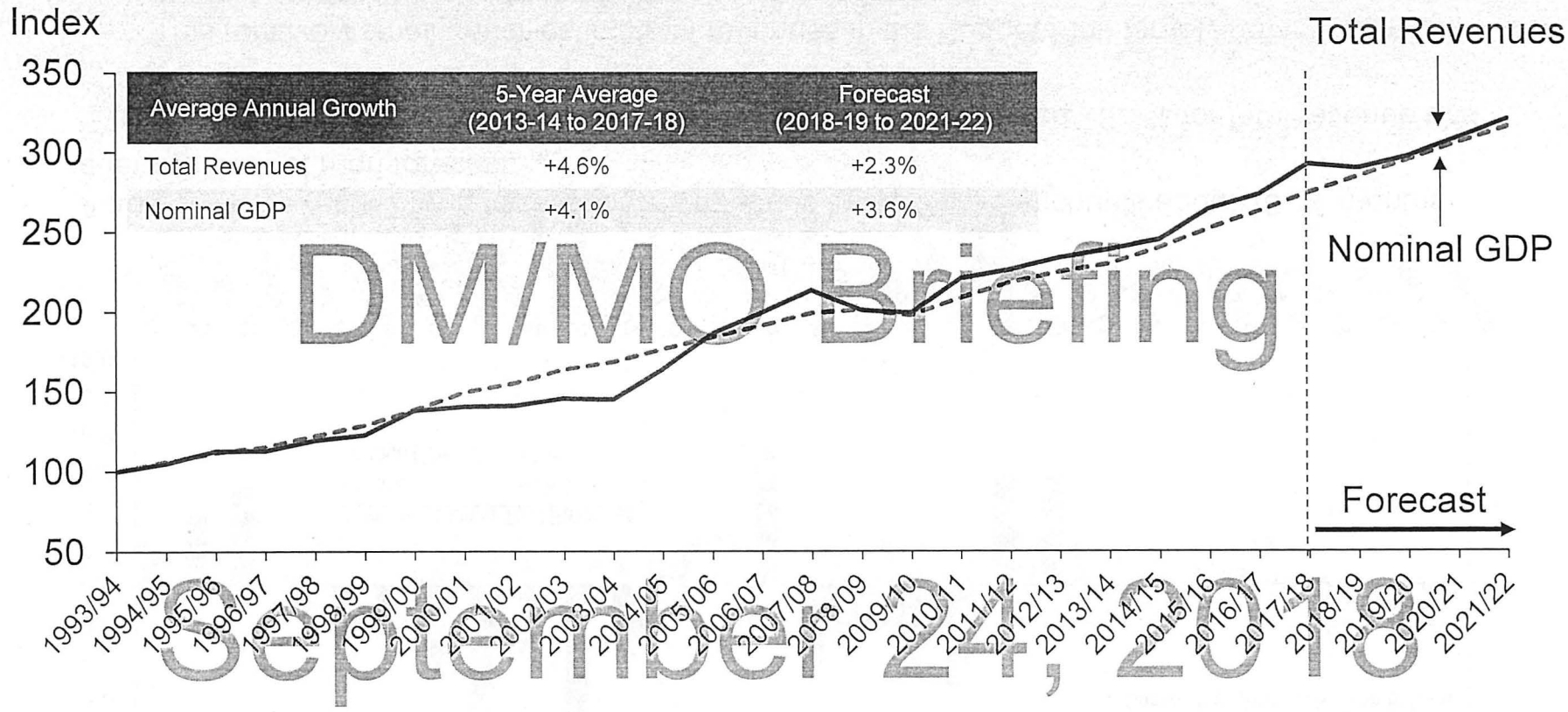
Forecasting process, key assumptions, and risks

- Other NTR projection is provided by government ministries and provincial agencies.
- The forecast for other NTR assumes:
  - Ending of Electricity Debt Retirement Charge in 2018-19
  - Cancelation of Cap-and-trade program starting in 2018-19
  - Completion of Hydro One Share Sale in 2018-19
- Key Risks to Other NTR:
  - Revenue can change based on the performance of the overall economy
  - Accounting issues and policy decisions: reporting changes, accounting adjustments, and policy decision on government asset sales and fees.

Revenue Growth versus Economic Growth



Average Annual Growth	5-Year Average (2013-14 to 2017-18)	Forecast (2018-19 to 2021-22)
Total Revenues	+4.6%	+2.3%
Nominal GDP	+4.1%	+3.6%

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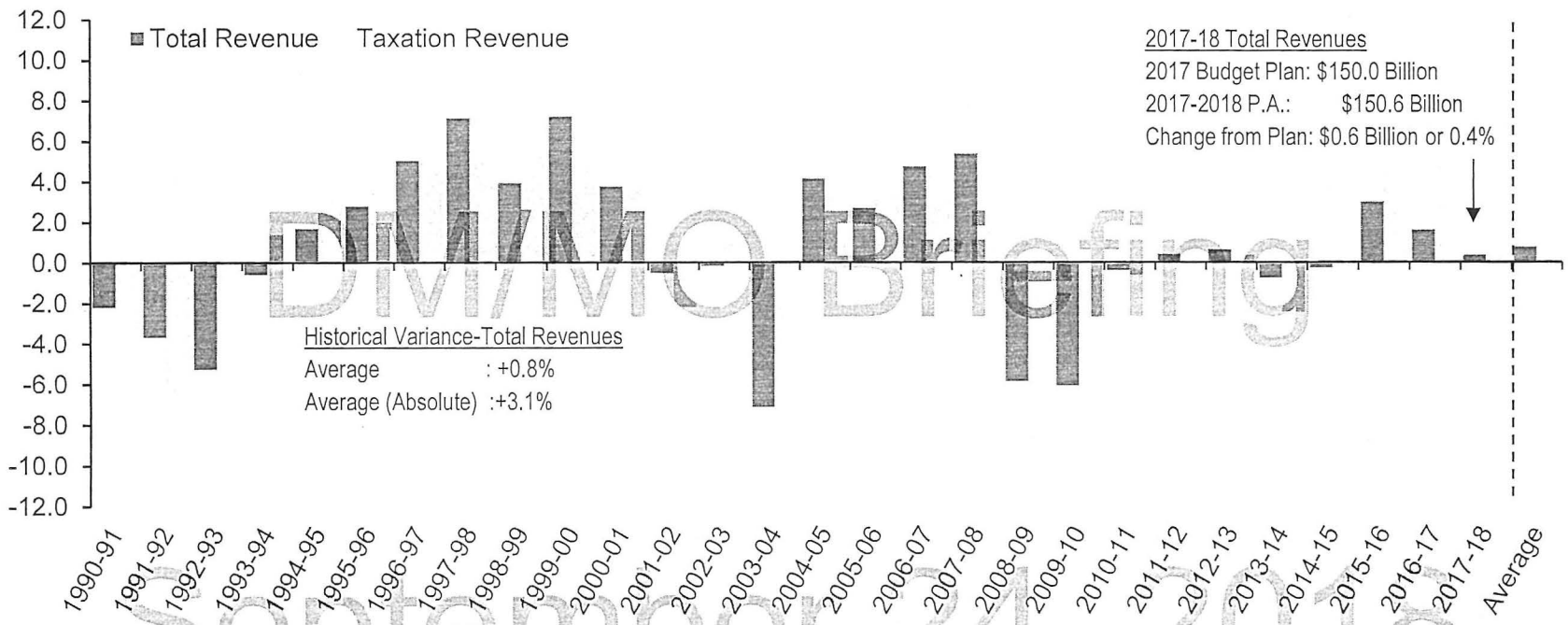
- On average, over the past 25 years, total revenues have grown roughly in line with nominal GDP.
  - Taxation revenues, in particular, representing 70% of total revenues have a close correlation with economic activity

Historical Revenue Variances: From Budget Plan to Actual*



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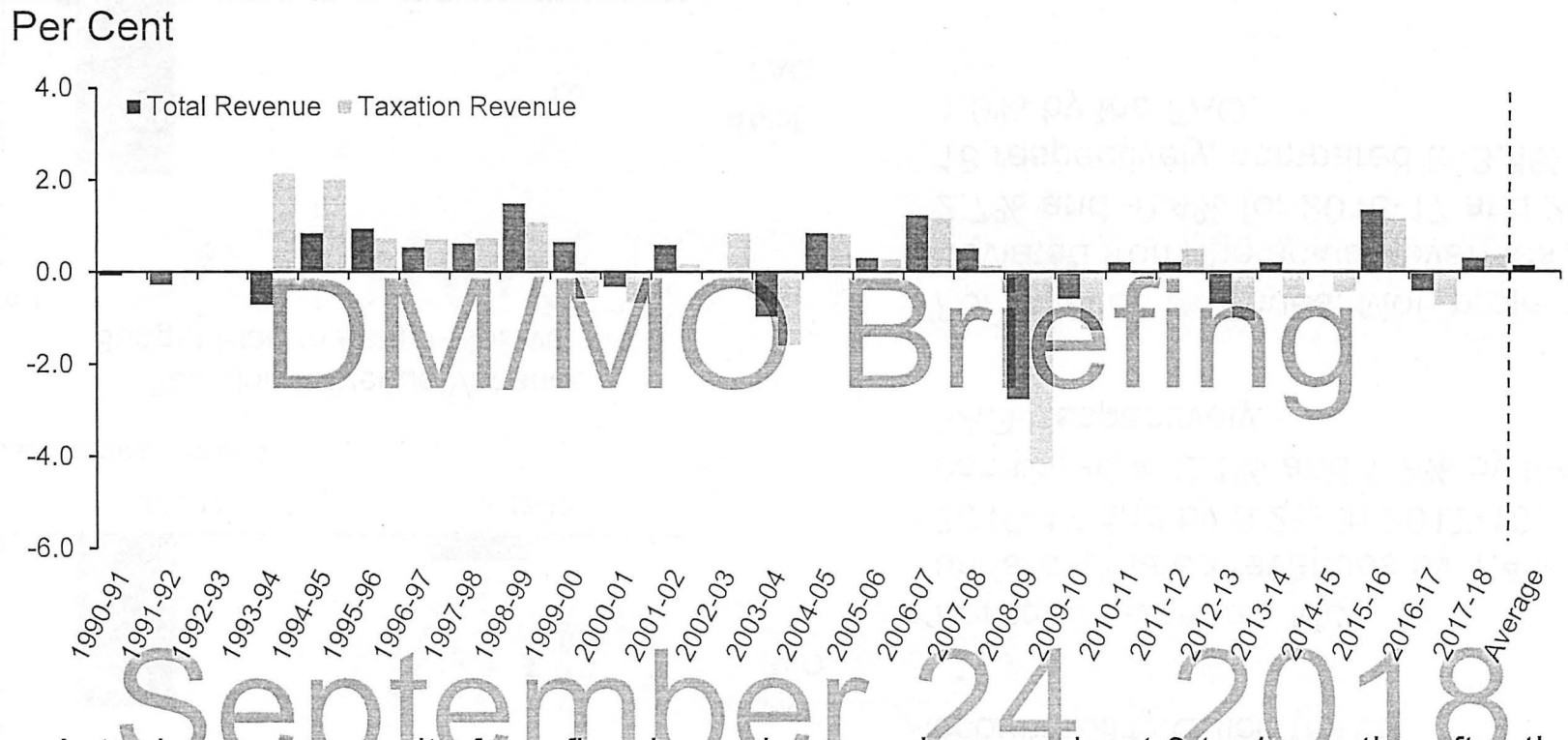
- Actual revenue results for a fiscal year are released in the Public Accounts about 16-17 months after the Budget Plan forecast.
- Over the past 28 years, variances from Plan to Actual have averaged +0.8% for total revenue and +0.5% for taxation revenue.
  - This relatively small under-estimate of revenues in the Budget Plan largely reflects some modest prudence built into the Budget economic forecast.
  - Although the average variance is relatively small, in any given year it can be significant (up to +/- 10% over past 28 years).

Historical Revenue Variances: From Budget Interim to Actual



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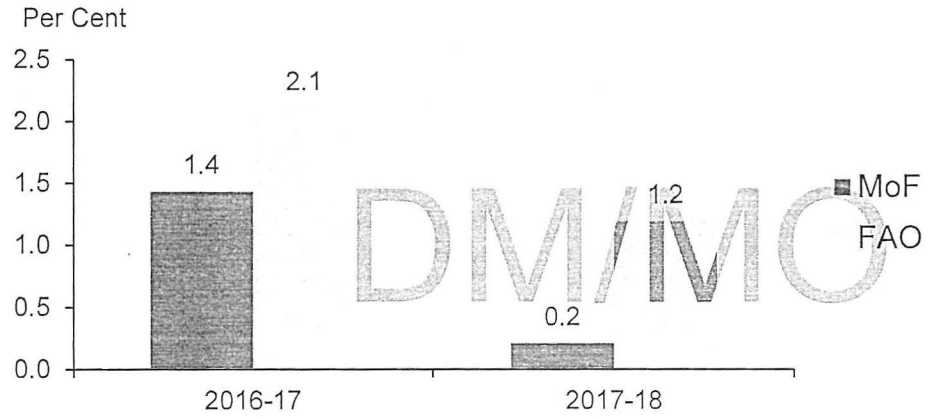
- Actual revenue results for a fiscal year become known about 3 to 4 months after the Budget Interim forecast.

- Due to the shorter time period between forecast and actual results, the variance from Interim to Actual is smaller than from Plan to Actual, averaging +0.1 per cent for total revenue and less than +0.1 per cent for taxation revenue.

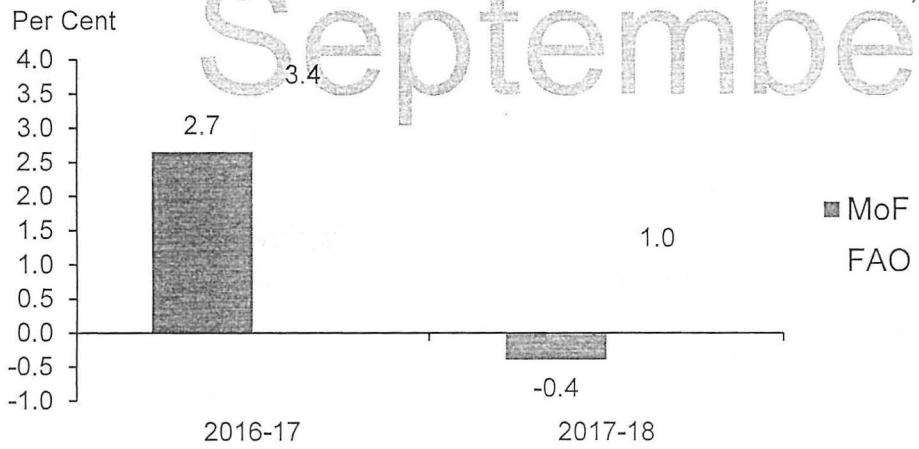
Revenue Forecast Performance: MoF vs. Financial Accountability Office

Total Revenue* Variance:
Budget Plan to Actual-MoF vs. FAO



*exclude revenues from BPS

Taxation Revenue Variance:
Budget Plan to Actual-MoF vs. FAO



Over the past two years, Ontario Ministry of Finance's Budget revenue projections were close to the actual revenues, compared to that of the Financial Accountability Office (FAO).

- For total revenues, MoF underestimated revenues by 1.4% in 2016-17 and by 0.2% in 2017-18, compared to 2.1% and 1.2% by the FAO respectively.

- For taxation revenues, MoF projections deviated from the actual revenues by 2.7% and -0.4% for 2016-17 and 2017-18 respectively, compared to 3.4% and 1.0% by the FAO.

DM/MO Briefing
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Appendix

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Ontario Revenues: 2017-2018

Taxation	
Personal Income Tax	32,900
Sales Tax	25,925
Corporations Tax	15,612
Education Property Tax	5,883
Employer Health Tax	6,205
Ontario Health Premium	3,672
Gasoline Tax	2,701
Land Transfer Tax	3,174
Tobacco Tax	1,244
Fuel Tax	760
Beer and Wine Tax	601
Electricity Payments-In-Lieu of Taxes	494
Other Taxes	552
	99,723

Government of Canada	
Canada Health Transfer	14,359
Canada Social Transfer	5,314
Equalization Payments	1,424
Labour Market Development Agreement	672
Social Housing Agreement	419
Indian Welfare Services Agreement	274
Workforce Development Agreement	234
Infrastructure Programs	1,065
Bilingualism Development	85
Labour Market Agreement for Persons with Disabilities	63
Youth Criminal Justice	52
Legal Aid Criminal	64
Home Care and Mental Health	116
Early Learning and Childcare	122
Direct transfer to BPS orgs	314
Other	283
	24,860

Income From Investment in Government Enterprises Business Enterprises	
Liquor Control Board of Ontario	2,207
Ontario Lottery and Gaming Corporation	2,487
Ontario Power Generation Inc.	1,092
Hydro One Ltd.	372
Ontario Cannabis Retail Corporation	(6)
	6,152

Other	
Sales and Rentals	2,426
Carbon Allowance Proceeds	2,401
Vehicle and Driver Registration Fees	1,912
Electricity Debt Retirement Charge	593
Power Supply Contract Recoveries	185
Other Fees and Licenses	819
Royalties	290
Independent Electricity System Operation Revenue	210
Net Reduction of Power Purchase Contracts	74
Local Services Realignment	138
Miscellaneous	2,502
	11,550

Fees, Donations and Other Revenues from Hospitals, School Boards and Colleges	**8,309**

Total Revenues	**150,594**

Source: *Ontario Public Accounts-2017-2018*

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Ontario Revenues: Ten-Year History

Revenue Source	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Taxation Revenues	69,453	65,451	71,664	75,598	79,418	79,966	82,275	91,818	94,346	99,723
Government of Canada Transfers	16,757	18,872	23,279	21,462	21,971	22,579	21,923	23,141	24,544	24,860
Income from Government Business Enterprises	4,043	4,195	4,566	4,413	4,469	5,337	5,615	4,909	5,567	6,152
Other Non-Tax Revenues	13,163	14,035	14,085	14,928	14,460	15,073	16,339	16,280	16,277	19,859
Total Revenues	**103,416**	**102,553**	**113,594**	**116,401**	**120,319**	**122,955**	**126,152**	**136,148**	**140,734**	**150,594**

Source: Ontario Public Accounts and Budgets

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Ontario Revenues to GDP Ratios

Revenue Source	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Taxation Revenues	11.4	10.9	11.4	11.5	11.7	11.5	11.3	12.0	11.9	12.0
Total Revenues	**17.0**	**17.2**	**18.0**	**17.6**	**17.7**	**17.7**	**17.4**	**17.9**	**17.7**	**18.1**

Revenue Source	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Taxation Revenues	12.9	12.7	12.3	11.5	11.2	10.9	11.7	11.9	12.3	12.5
Total Revenues	**16.2**	**17.0**	**16.0**	**15.5**	**15.1**	**14.6**	**15.8**	**17.2**	**17.7**	**18.2**

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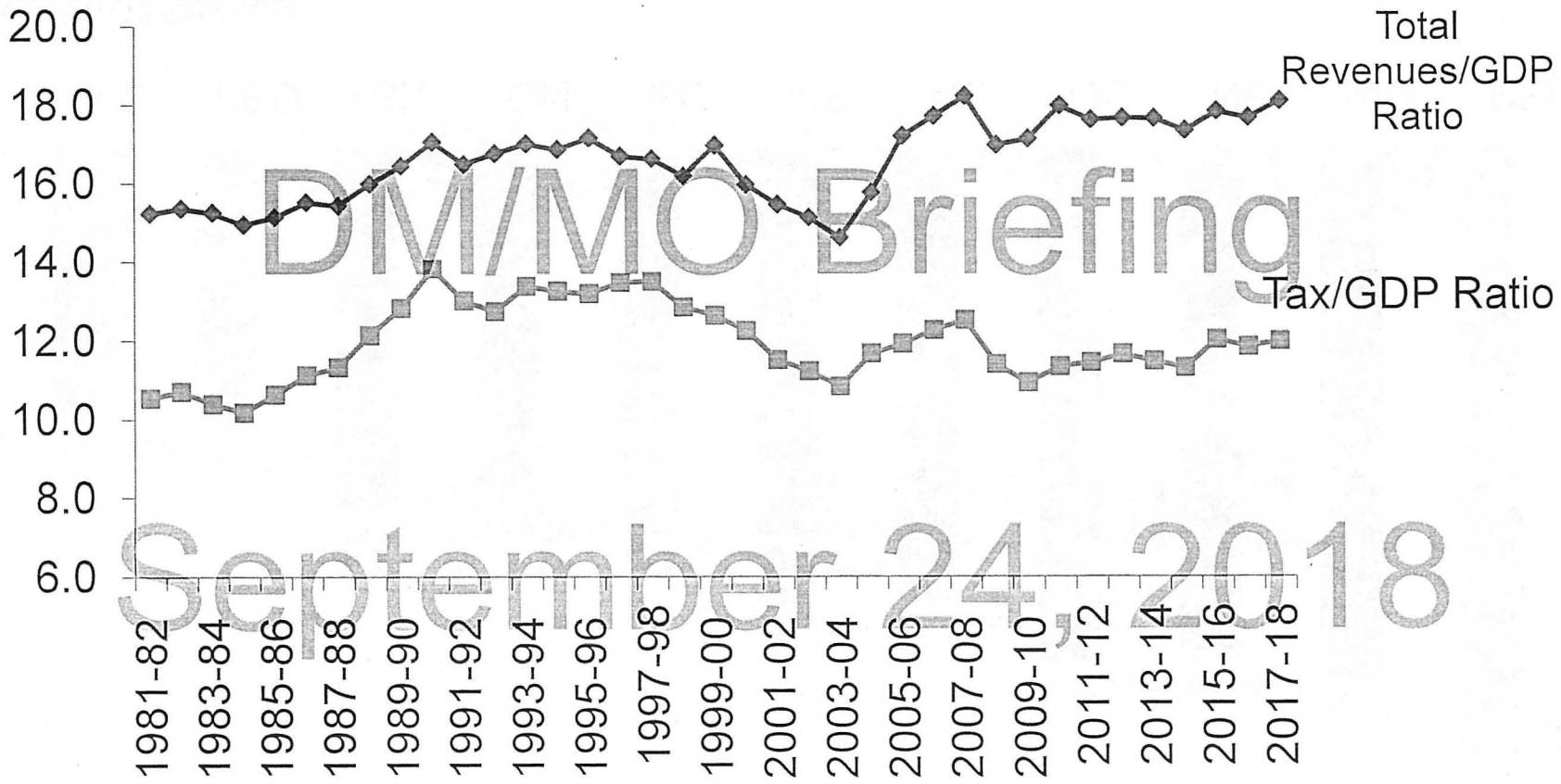
Revenue Source	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98
Taxation Revenues	12.1	12.8	13.8	13.0	12.7	13.4	13.3	13.2	13.5	13.5
Total Revenues	**16.0**	**16.4**	**17.1**	**16.5**	**16.8**	**17.0**	**16.9**	**17.2**	**16.7**	**16.6**

September 24, 2018

Revenue Source	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87	1987-88
Taxation Revenues	10.5	10.7	10.4	10.2	10.6	11.1	11.3
Total Revenues	**15.2**	**15.4**	**15.2**	**14.9**	**15.1**	**15.5**	**15.4**

Source: Ontario Public Accounts and Budgets, Statistics Canada

Ontario Revenues to GDP Ratios



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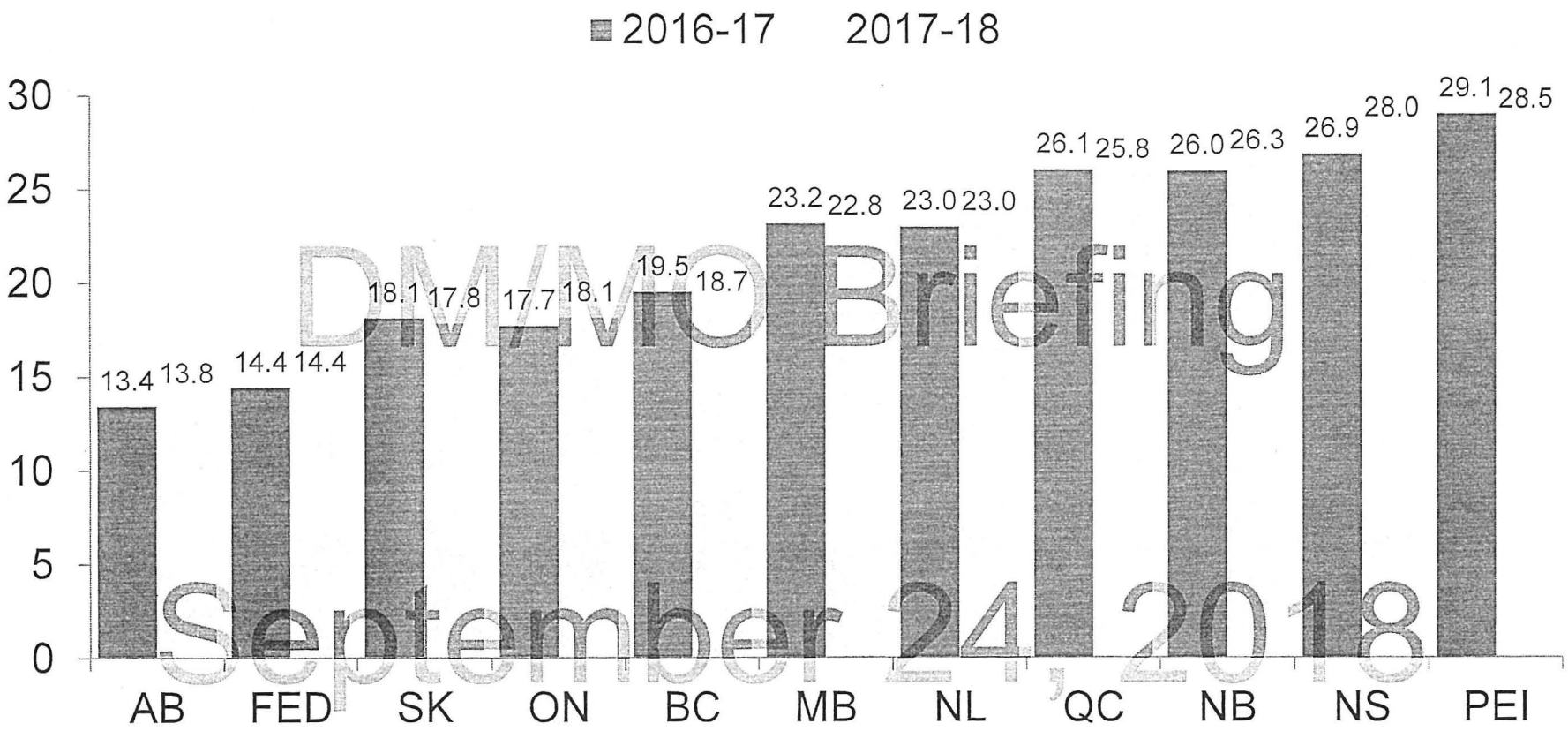
Source: Ontario Public Accounts and Budgets, Statistics Canada

Total Revenues to GDP Ratio By Province and Federal Government



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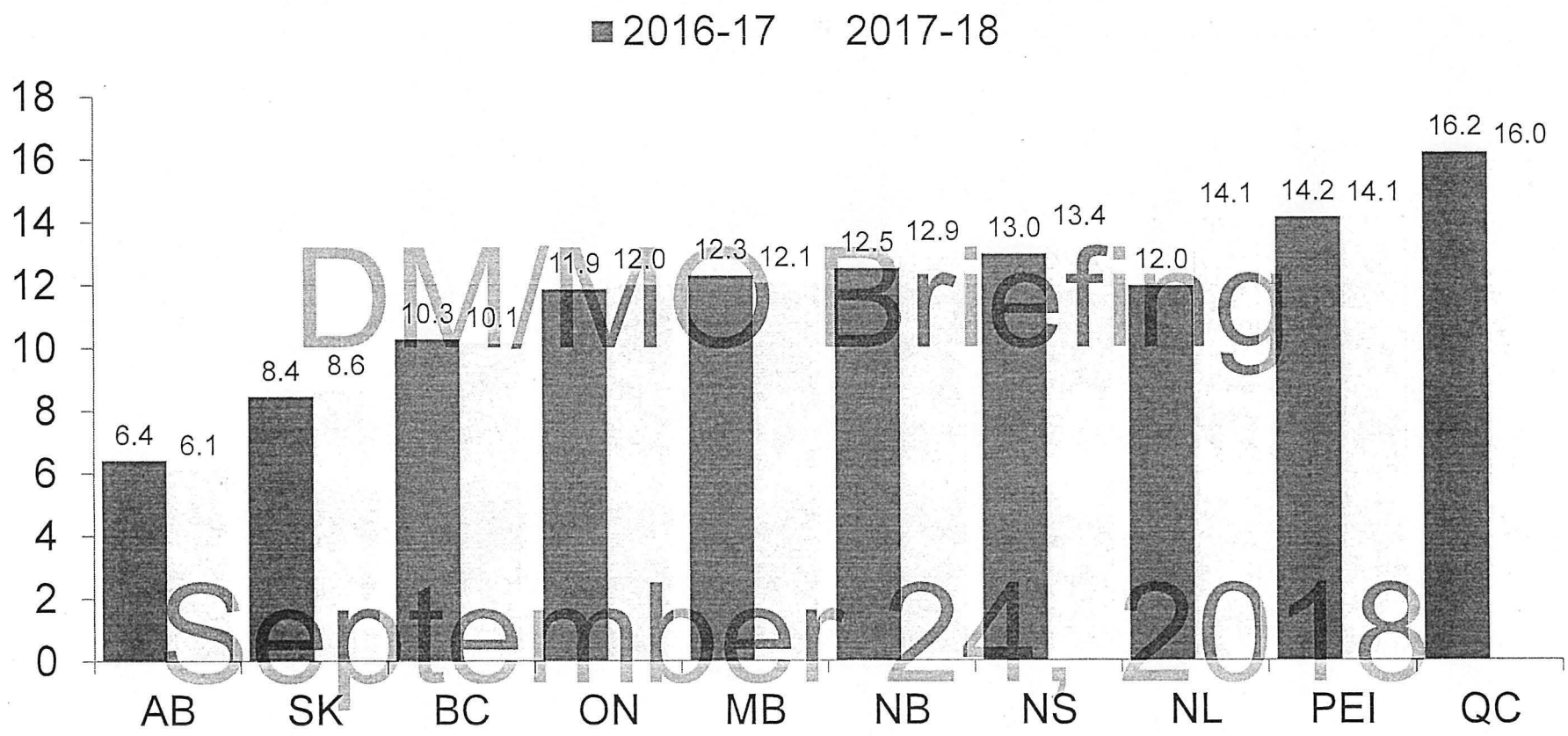
Note: 2017-18 Revenues

- Revenues for Newfoundland and Labrador, Prince Edward Island, Quebec, Manitoba and the Federal Government reflects their interim figures as per their 2018 Budgets.
- Aside Ontario, nominal GDP are based on latest CBOC projections.

Source: Provincial Budgets and Public Accounts, Statistics Canada, Conference Board of Canada

Taxation Revenues to GDP Ratio By Province



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- Aside Ontario, nominal GDP are based on latest CBOC projections.

Source: Provincial Budgets and Public Accounts, Statistics Canada, Conference Board of Canada

•L-T Energy Plan

Ontario

MINISTRY OF
ENERGY

Industrial Electricity Prices in Ontario

- Firms want price certainty
- Shifting (ICI) to off peak but auto can't
- Incentives for conservation
- Public price ≠ actual negotiated local price.

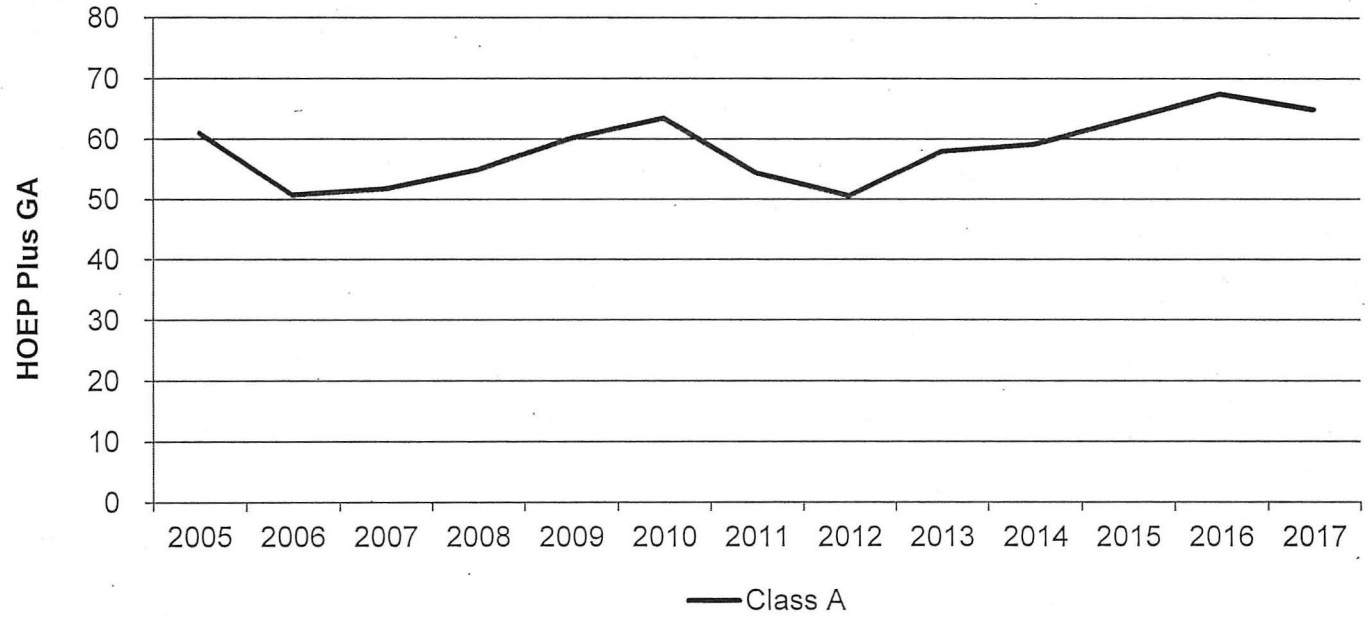
Working Draft

May 2018

Historical Industrial Electricity Price

- The commodity cost of electricity for industrial consumers has remained relatively flat over the last decade.

Historical Commodity Cost in Ontario for Industrial Consumers



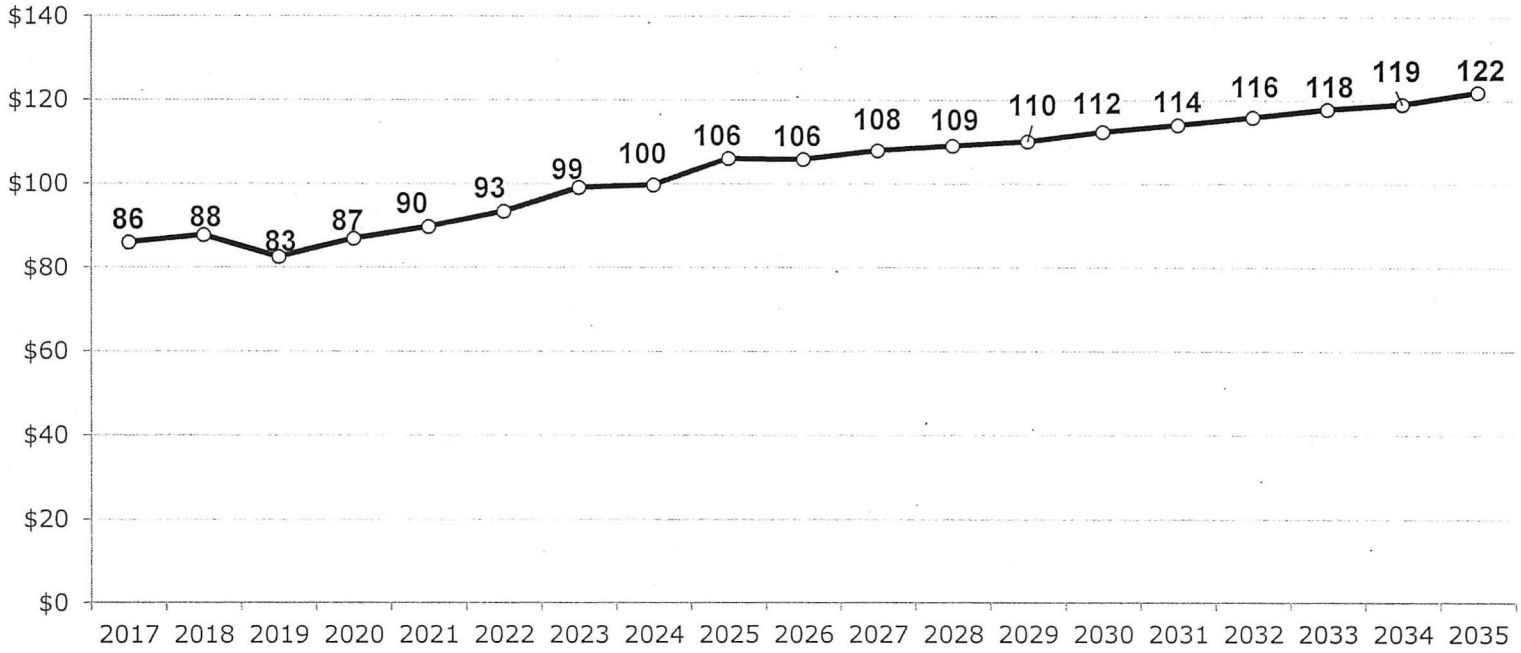
Note: Above costs do not include delivery, regulatory or Debt Retirement charges. Large electricity consumers generally pay lower per-unit delivery charges than small and mid-sized consumers.

Source: Ministry of Energy

Long-Term Industrial Electricity Price

- Class A industrial consumers' electricity prices are expected to increase at roughly the rate of inflation to 2035.

Forecasted All-in Industrial Electricity Prices



Source: 2017 Long-Term Energy Plan (2017 LTEP)

Bill Components of Industrial Electricity Prices

- The table below shows the components of a typical Class A (i.e., large industrial) consumer's electricity rates for 2017.

Bill Component	Class A Price in 2017 ($/MWh)	Notes
Electricity	$14	Covers the cost of generating electricity and conservation and demand management programs. Consumers with contracts with electricity retailers may pay a different rate than that listed
Global Adjustment	$51	GA mechanism ensures recovery of long-term generation and conservation cost Based on 5 peaks/yr
Distribution	-	Associated with the cost of delivering electricity from distributors to customers. Most large industrials connect directly to the transmission system as opposed to connecting to a distributor.
Transmission	$10	Associated with the cost of delivering electricity from generators to distributors
Regulatory	$4	Recovers the costs of administering the wholesale electricity system and maintaining the reliability of the provincial grid
Debt-Retirement Charge (DRC)	$7	Recovers the stranded debt and liabilities of the former Ontario Hydro.
HST	-	Applied at a rate of 13 per cent; consists of a provincial portion of 8 per cent and a federal portion of 5 per cent
Total	**$86**	

Note: DRC was eliminated from bills of Class A industrial consumers on April 1, 2018. Many industrial electricity consumers effectively do not pay HST, as they receive tax credits equal to HST expenditures on electricity. Class A consumers are consumers that participate in the Industrial Conservation Initiative (ICI) and achieve lower electricity rates by reducing their demand during peak periods.

Source: Independent Electricity System Operator (IESO), Ontario Energy Board (OEB)

Jurisdictional Comparison – All-In Electricity Prices

Illustrative All-In Electricity Prices – Canadian $/MWh (April 2017)

2017	**Large Industrial**
Ontario – South	85.60
Ontario – North	65.60
Quebec	49.10
Michigan	97.50
Ohio	88.10
New York	75.40
U.S. average	**88.10**

Note: Ontario – North price reflects the $20/MWh rebate provided by the Northern Industrial Electricity Rate (NIER) program.

Source: U.S. Energy Information Administration, Hydro Quebec (HQ), Ministry of Energy

Jurisdictional Comparison – Industrial (cont'd)

- The following chart compares industrial electricity prices across North America.

2017 Industrial Electricity Prices (Canadian ¢/kWh)							
Jurisdiction	Cost	Jurisdiction	Cost	Jurisdiction	Cost	Jurisdiction	Cost
1 Manitoba	4.32	18 Kentucky	7.44	35 Ohio	8.81	52 North Dakota	11.41
2 Newfoundland	4.90	19 New Brunswick	7.50	36 U.S. Average	8.81	53 Maryland	11.48
3 Quebec	4.91	20 New York	7.54	37 West Virginia	8.99	54 Maine	12.58
4 Alberta	5.67	21 Utah	7.57	38 Pennsylvania	9.19	55 New Jersey	13.12
5 Washington	6.08	22 Idaho	7.77	39 Wyoming	9.26	56 Vermont	13.44
6 British Columbia	6.29	23 South Carolina	7.82	40 Prince Edward Island	9.31	57 California	14.13
7 Montana	6.41	24 Arizona	7.85	41 Colorado	9.43	58 New Hampshire	16.51
8 Ontario - North	6.56	25 North Carolina	7.92	42 Michigan	9.75	59 Connecticut	17.52
9 Nevada	6.68	26 Tennessee	7.93	43 Indiana	9.83	60 Massachusetts	17.81
10 Louisiana	6.69	27 Alabama	7.97	44 Kansas	9.89	61 Rhode Island	18.95
11 Oklahoma	6.87	28 Oregon	8.01	45 Nebraska	9.91	62 Alaska	22.42
12 Canadian Average	6.89	29 New Mexico	8.02	46 Minnesota	10.04	63 Hawaii	29.87
13 Texas	7.11	30 Mississippi	8.09	47 Nova Scotia	10.14		
14 Iowa	7.19	31 Missouri	8.45	48 Wisconsin	10.15		
15 Saskatchewan	7.30	32 Illinois	8.55	49 South Dakota	10.17		
16 Arkansas	7.4	33 Ontario - South	8.56	50 Florida	10.51		
17 Georgia	7.41	34 Virginia	8.63	51 Delaware	10.59		

Note: Estimates may differ from actual costs to a consumer based on location, connection and operation characteristics. Prices exclude taxes and participation in any applicable jurisdictional benefit programs, excluding Ontario - North price which reflects the $20/MWh provided by the NIERP program.

The Ontario industrial price is based on the average all-in price for year-to-date May 2017 and includes the Hourly Ontario Energy Price, Class A Global Adjustment, delivery, wholesale market service charges and the Debt Retirement Charge.

All other Canadian prices (except Ontario) are from the Hydro Quebec Rate Comparison for rates effective April 1, 2017 for select local distribution companies servicing specific cities. Where Hydro Quebec reports prices for two cities in a province (e.g. Calgary and Edmonton), an average of the two is used. In provinces where only one city is reported (e.g. Vancouver in BC, Montreal in QC), that one price is used to represent the province for indicative comparison purposes. In the Hydro Quebec Rate Comparison, a large consumer reflects 50 MW with monthly consumption of 30,600 MWh.

American jurisdictions reflect April 2017 data from the US Energy Information Administration's survey of approximately 500 of the largest utilities. The price reflects the average revenue reported by the utility from electricity sold to the industrial sector. The value represents an estimated average retail price, but does not necessarily reflect the price charged to an individual consumer. National averages are the simple averages of the jurisdictions in the country. Prices are converted at an exchange rate of 1 USD = 1.33 CAD.

Source: EIA, HQ , Ministry of Energy

Jurisdictional Comparison – Considerations (cont'd)

- Although comparing Ontario electricity prices with U.S. state prices can be useful, it has limitations. There is no such thing as a single "Ontario price" or a "Michigan price", for the following reasons:

  - **Location:** Most jurisdictions, including Ontario, have more than one utility, each with a different geographic service territory and rate schedule. This means the published price used for price comparison purposes (an average) differs from prices actually paid by most consumers. Note: Delivery charges vary by local distribution company.

  - **Consumption Profiles:** Published prices are constructed based on typical consumers. To the extent that not all consumers are typical, prices will differ. For example, a consumer in the mining sector would have a much different consumption profile than a petroleum refiner, leading to a difference in prices paid.

  - **Support Programs:** Posted prices generally do not reflect government programs, such as the Northern Industrial Electricity Rate (NIER) program.

  - **Exchange Rates:** Prices for U.S. states are reported in U.S. dollars. If converted to Canadian dollars, the comparison may not be totally meaningful, as exchange rates often reflect macroeconomic conditions that are unrelated to electricity prices.

Sources

- Below is a list of sources used in this presentation:

Source	Description and Link
Ministry of Energy	The Ministry's cost modules are published on its Ontario Energy Report website: https://www.ontarioenergyreport.ca/data-catalogue.php
2017 Long-Term Energy Plan (2017 LTEP)	Ontario's electricity forecasts are published on the Ontario Energy Report website: https://www.ontarioenergyreport.ca/data-catalogue.php
Ontario Energy Board (OEB)	Distribution rate orders that determine the delivery component of a typical electricity bill are published at the link below: https://www.oeb.ca/industry/applications-oeb/electricity-distribution-rates/2017-electricity-distribution-rate.
Independent Electricity System Operator (IESO)	Ontario's system operator publishes monthly costs of several bill components: http://www.ieso.ca/sector-participants/settlements/global-adjustment-components-and-costs
Hydro Quebec (HQ)	The provincial utility publishes an annual comparison of electricity prices across North American cities. A link to the 2017 report can be found below: http://www.hydroquebec.com/residential/customer-space/account-and-billing/understanding-bill/comparison-electricity-prices.html
U.S. Energy Information Administration (EAI)	Industrial Electricity Prices by State can be found in the link below: https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a

FISCAL SCENARIO FOR FUTURE PLANNING

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

Draft, June 7, 2018 2:30 PM

All numbers are draft and to be confirmed

Confidential Advice to Cabinet

Objective

- Develop a starting point for fiscal planning, building off of the 2018 Pre-Election Report.
- Present a fiscal scenario to inform future fiscal planning and reporting based on potential choices related to published plans.
- Outline key decisions and potential actions moving forward.

Part I: Current State and *2018 Budget* Recap

Current State of Ontario's Fiscal Outlook

2017-18 Fiscal Year

The interim outlook for 2017-18 projected a surplus of $0.6 billion (based on *2018 Budget* accounting treatment for net pension assets and electricity refinancing).

- There is still additional information and choices pending that will need to be landed as part of the final 2017-18 fiscal results as part of the Public Accounts process in summer 2018.

Longer-term fiscal sustainability will require choices to be made:

Fiscal sustainability requires the long-term alignment of revenue and expense. Ensuring this can take place in the coming years will require choices to be made, and tools be employed.

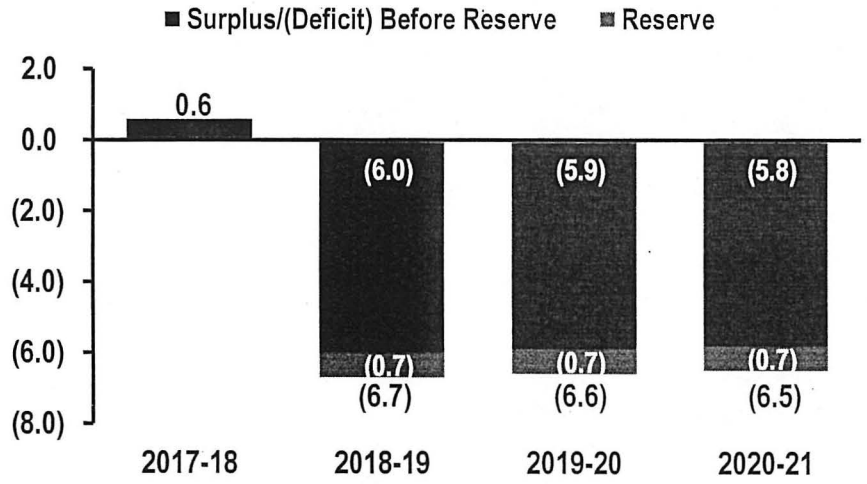
- Economic growth has slowed and nearly every forecaster anticipates sustained growth at a modest pace over the next four years.
    - There are significant imbalances and risks in the global economy, and the potential for a recession is rising.
- Past experience shows that periods of extended expense restraint – program expense growth has been held to an average annual rate of 1.7 per cent between 2010-11 and 2015-16 – are followed by periods of much higher growth.
- Interest rates are also forecast to increase from their historic lows.

Recapping the *2018 Budget / Pre-Election Report* Fiscal Architecture

- The *2018 Budget* and Pre-Election Report projected deficits over the next three fiscal years.
- The *2018 Budget* also included a plan that projected balance by 2024-25.

2018 Budget / Pre-Election Report Fiscal Targets

Fiscal Balance
($ Billions)



	2017-18	2018-19	2019-20	2020-21
Net Debt-to-GDP (%)	37.1	37.6	38.2	38.6

Average Annual Growth Rates 2018-19 to 2020-21

Revenue: 3.7%
Program Expense: 3.3%.

Overview of Medium-Term Outlook

- Forecast for **rising revenues** driven by private sector forecasts for **modest sustained economic growth**.
  - Significant economic and revenue **risks**, including those related to trade with the US, rising interest rates and slowing household spending.
  - The *2018 Budget* outlook included revenue measures such as changing the Personal Income Tax brackets and surtax.
- **Program spending was projected to increase significantly** in each year over the medium-term primarily **due to a number of new initiatives**, as well as demand pressures from existing programs.
  - New initiatives over the medium-term outlook totaled $13.3 billion, including $2.1 billion in 2018-19, $4.2 billion in 2019-20 and $7.0 billion in 2020-21 (note: excludes increases made to existing base spending to keep pace with cost drivers, technical updates, etc.).
- The Auditor General's recommended accounting adjustments for electricity refinancing and two public sector pension plans were not reflected in the *2018 Budget* and Pre-Election Report outlook (potential fiscal impact of $5.0 billion in 2018-19).

2018 Budget / Pre-Election Report – Details of Revenue Assumptions

Projected taxation revenues to increase over time in line with private sector forecasts for modest continued economic growth. Key assumptions included:

- Nominal Gross Domestic Product growth averaging 4% annually.
- Strong rebound in 2017 Personal Income Tax revenue
- Non-Resident Speculation Tax revenues
- Further federal home care and mental care funding
- Federal Phase 2 infrastructure funding

- Forecast included declining revenues from a number of non-tax revenue sources, including:
  - Sales and rentals revenue, mainly due to time-limited impacts from the sale of Hydro One shares and real-estate transactions
  - Electricity debt retirement charge
  - Cap and trade proceeds
  - Equalization

2018 Budget / Pre-Election Report – Details of Expense Assumptions

The *2018 Budget* / Pre-Election Report projected program expense to increase at an average annual rate of 3.3 per cent between 2018-19 and 2020-21, reflecting underlying demand for programs and new initiatives.

Program Base Adjustments

- Items with ***revenue offsets*** (e.g., Early Learning and Child Care Bilateral Agreement, Federal infrastructure funding for transit).
- Items that are likely to require funding because of ***underlying cost drivers or legal settlements/contractual obligations*** (e.g., Hospital surge capacity and Emergency Health Services; Higher-than-forecast OSAP applications and awards; Police oversight and community policing, and Jahn settlement in Correctional Services).
- Other items resulting from ***changes to legislation***, such as Transitional funding for Bill 148.

Other Adjustments including:

- Envelope for potential ***compensation funding*** as a result of pending negotiated settlements and land claims pressures.

New Initiatives

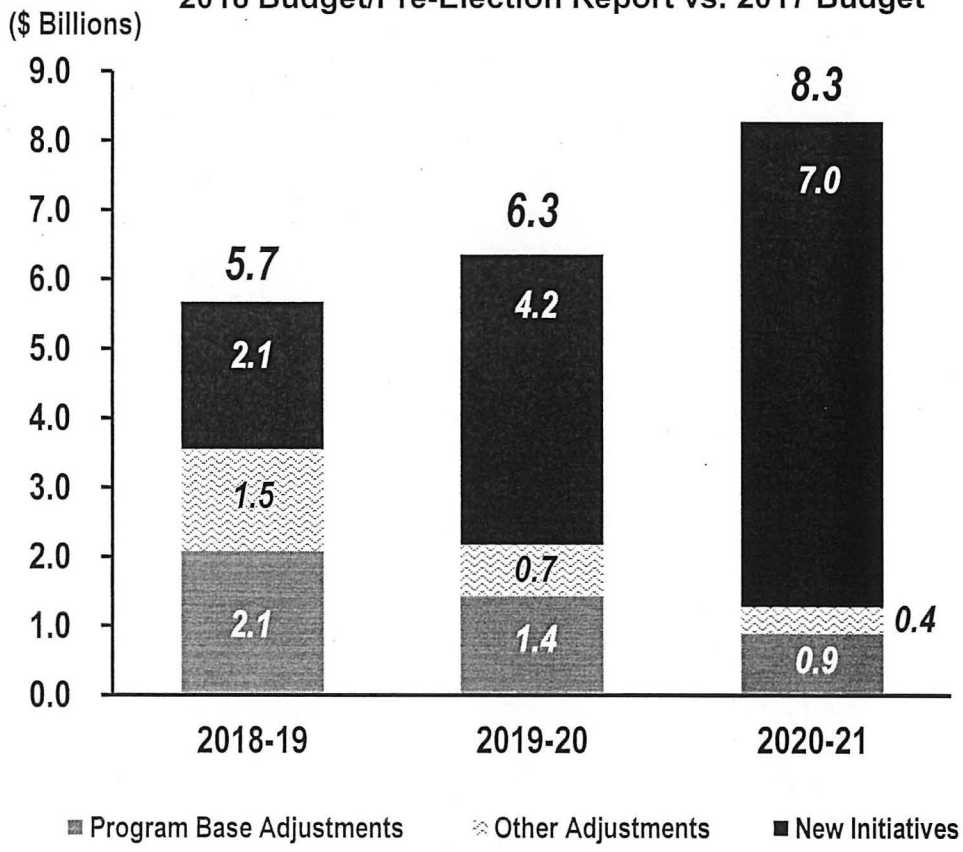
2018 Budget Initiatives:

- Mental health and addictions initiatives; social assistance system reform; special education and child care expansion; home care expansion and dental care program; developmental services expansion; and Rural and Northern Education Fund.

Fall Statement Initiatives:

- Small business support; and seniors services and supports initiatives.

Changes to Program Spending:
2018 Budget/Pre-Election Report vs. 2017 Budget



**Note: $1.1B in 2018-19, $0.6B in 2019-20 and $1.0B in 2020-21 of expense changes have revenue offsets (fiscally neutral)*

Part II:
Establishing a Starting Point for Future Planning

A status quo starting point that includes the must-do measures from the 2018 Budget will help isolate the state of the Province's foundational fiscal architecture – essentially providing the underlying economic and fiscal trajectory for the current footprint of government revenue and expense – before any new government action, whether that includes new tax cuts or program investments, or new revenue tools/spending savings measures.

Starting Point Methodology

The starting point serves as an illustrative foundation, and is based on the following assumptions:

- **Builds off of the baseline/core assumptions of the fiscal outlook presented in the reviewed Pre-Election Report / 2018 Budget.**
- **Excludes 2018 Budget revenue measures**, but incorporates updates for new economic and revenue information that has become available since the Pre-Election Report.
- **Excludes new spending initiatives** from the *2018 Budget* and 2017 Fall Statement – to be replaced with new and emerging priorities (note that for 2018-19, spending has started to flow for some initiatives).
- **Excludes some discretionary spending** from the program base but maintains the majority of other program spending adjustments.
  - Key remaining program base adjustments reflect *underlying cost drivers/demand* or legal settlements/contractual obligations; *items offset by revenue* (fiscally neutral); and other items that can be avoided but may require *additional time to undo.*
  - Excluding additional program base adjustment spending is a possibility – but will require assessment and decisions.
- A portion of other adjustments included in the 2018 Pre-Election Report are reversed, as these will require future government decisions.
  - Set-aside envelope for future compensation increases arising from pending collective agreements, Bill 148 impacts, and funding for some land claims.
- Includes interest on debt forecast updates, but excludes the reserve from the 2018 Pre-Election Report (government decision).

Starting Point - Revenue Measures Reversals and Outlook Updates

In order to establish a revenue starting point, the following measures taken on at the time of the *2018 Budget* are removed and the outlook is updated for the impact of new information.

Revenue Starting Point			
($ Billions)	**2018-19**	**2019-20**	**2020-21**
2018 Pre-Election Report – Revenue	**152.5**	**157.6**	**163.8**
2018 Budget – Tax Measures Reversed			
Surtax Elimination and Bracket Adjustments	*(0.3)*	*(0.3)*	*(0.3)*
Ontario Research and Development Tax Credit	*0.0*	*0.0*	*0.0*
Targeting the Employer Health Tax Exemption to Small Employers	*(0.0)*	*(0.0)*	*(0.0)*
Small Business Limit Phase Out	*(0.0)*	*(0.1)*	*(0.2)*
Total 2018 Budget Tax Measures	**(0.3)**	**(0.4)**	**(0.5)**
2018 Budget Expense Initiatives with Revenue Offset	**–**	**(0.0)**	**(0.0)**
New Economic and Revenue Information			
Private Sector Economic Forecasts	*(0.2)*	*(0.2)*	*(0.2)*
Housing Resales	*(0.1)*	*(0.1)*	*(0.1)*
Corporate Profits	*0.0*	*0.0*	*0.0*
Taxation Revenue Collections	*0.0*	*0.0*	*0.0*
Total New Information	**(0.3)**	**(0.3)**	**(0.3)**
Total Revenue Changes	**(0.6)**	**(0.7)**	**(0.7)**
Starting Point – Revenue	**151.9**	**156.8**	**163.1**

To arrive at starting point revenue, two adjustments to the Pre-Election Report outlook are required:

1. Reversing the impact of provincial tax measures announced in the 2018 Budget

2. Reflecting the impact of new economic and revenues information, which includes:
   - A downward revision to the average Private-Sector economic real GDP growth forecast in 2018,
   - Slower housing resale market,
   - The impact of new information on 2017 and 2018 Q1 corporate operating profits, and
   - Ontario administered tax revenues collections in recent months.

Cap & Trade revenue remains included in the starting point, consistent with the 2018 Pre-Election Report. (More information of Cap & Trade revenues and related expenses included later in the presentation).

The Starting Point

Change Relative to 2018 Budget / Pre-Election Report	*2018 Budget / Pre-Election Report*			Change/Adjustments			Scenario - Starting Point		
($ Billions)	2018-19	2019-20	2020-21	2018-19	2019-20	2020-21	2018-19	2019-20	2020-21
Revenue	152.5	157.6	163.8	(0.6)	(0.7)	(0.7)	151.9	156.8	163.1
Program Expense, Including:	145.9	150.4	155.8	(2.2)	(5.0)	(8.3)	143.7	145.4	147.4
New Initiatives	*2.1*	*4.2*	*7.0*	*(1.3)*	*(3.9)*	*(6.8)*	*0.8*	*0.2*	*0.2*
Other Adjustments, Including:	*0.2*	*0.8*	*1.6*	*(0.8)*	*(0.7)*	*(1.1)*	*(0.6)*	*0.0*	*0.4*
Contingency Funds (Incl. PTIF)	*1.6*	*2.7*	*3.6*	*(0.8)*	*(0.7)*	*(1.1)*	*0.8*	*1.9*	*2.5*
Year-end Savings Target	*(1.2)*	*(1.2)*	*(1.2)*	-	-	-	*(1.2)*	*(1.2)*	*(1.2)*
Other Savings Target	*(0.2)*	*(0.8)*	*(0.9)*	-	-	-	*(0.2)*	*(0.8)*	*(0.9)*
Program Base Adjustments for Demand	*143.6*	*145.5*	*147.2*	*(0.1)*	*(0.3)*	*(0.4)*	*143.5*	*145.1*	*146.8*
Interest on Debt	12.5	13.1	13.8	(0.0)	(0.2)	(0.5)	12.5	12.9	13.3
Total Expense	158.5	163.5	169.6	(2.2)	(5.2)	(8.9)	156.3	158.3	160.8
Surplus/(Deficit) before Reserve	(6.0)	(5.9)	(5.8)	1.6	4.5	8.1	(4.4)	(1.5)	2.3
Reserve	0.7	0.7	0.7	(0.7)	(0.7)	(0.7)	-	-	-
Surplus/(Deficit)	**(6.7)**	**(6.6)**	**(6.5)**	**2.3**	**5.2**	**8.8**	**(4.4)**	**(1.5)**	**2.3**

- The starting point illustrates the fiscal gap/room before any new government action is taken.
- Once the starting point is established, initiatives such as new tax cuts, program investments, or efficiencies can be layered on.

Additional Risks Remain Beyond the Starting Point

Key risks to the starting point fiscal outlook include:

Revenue	Expense
• Economic growth (e.g. NAFTA, interest rates, housing market, household debt) • 2017 PIT and CIT tax assessment results • 2017 HST entitlement estimates • Income shifting resulting from US tax reform • OEB decisions (e.g. Hydro One deferred tax asset) • Federal infrastructure funding • Government business enterprise net income • Cap and trade proceeds	• Ministry pressures related to demand driven programs (e.g., Social Assistance, Health, and OSAP) • Impact of compensation negotiations (e.g., Ontario Medical Association, Correctional Service workers and future teachers contracts). • Provincial share to cost match federal programs • Land claims

See appendix for other potential pressures and risks that are not funded.

Part III: Fiscal Scenarios

Fiscal Scenarios

The following slides build off the starting point on slide 11 to include the following election commitments:

1. **Tax cuts**
2. **New spending priorities, commitments and investments – noting that the design and cost of some commitments are yet to be determined**
3. The resulting **incremental interest on debt (IOD) expense**

While the starting point maintains *2018 Budget / Pre-Election Report* savings targets, a commitment has been made to find additional savings and efficiencies – however the annual trajectory or rollout has not yet been determined. As a result, two illustrative approaches are presented:

1. **Scenario before additional efficiencies/savings target are assigned**
2. **Scenario including additional efficiencies/savings target to reach 2%/3%/4% in each year over the outlook, respectively**

The following items are excluded from the scenarios:

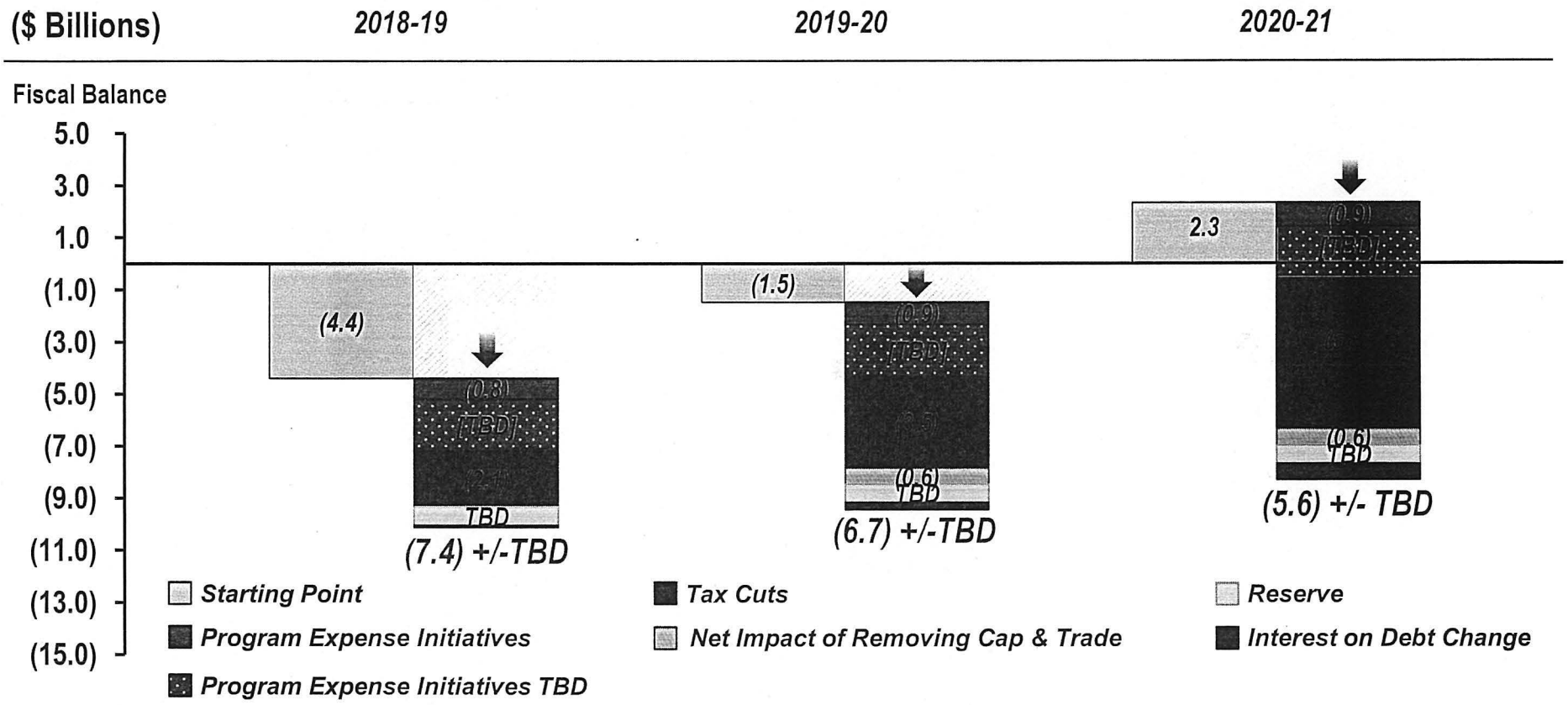
1. The fiscal impact of adopting the **Auditor General's recommended accounting treatment** for pensions and/or electricity refinancing is not layered into the fiscal scenario, however the impact on net debt-to-GDP is shown to provide a complete picture of the potential fiscal position of the Province moving forward

$ Billions	2018-19	2019-20	2020-21
AG's Accounting Adjustment	5.0	5.6	6.0

2. The starting point does not take into account **pressures and other potential risks** that are not funded.

Scenario Before Applying Efficiencies

Average Annual Growth Rates 2018-19 to 2020-21
Total Revenue: 1.9%
Program Expense: 0.9%

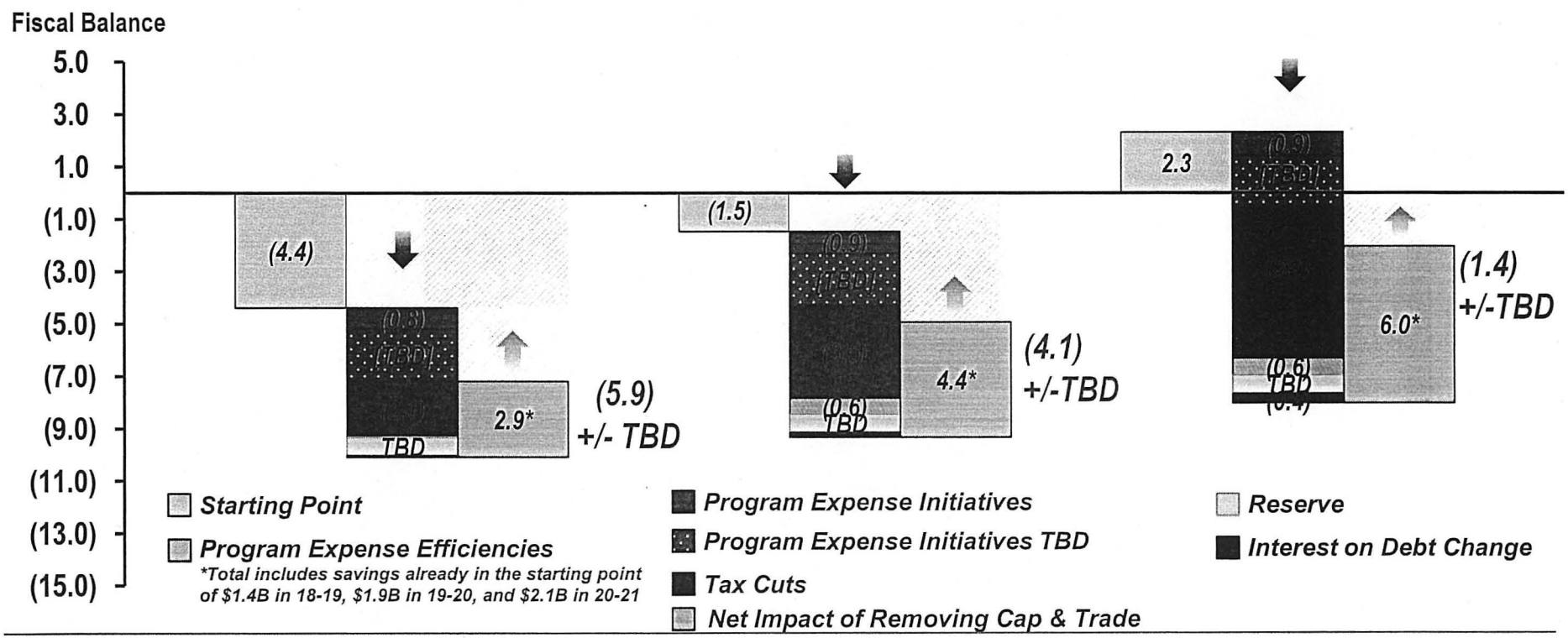


	2018-19	2019-20	2020-21
Resulting Net Debt-to-GDP (%)	37.7	38.3	38.6
Auditor General Accounting Adjustments ($ Billions) and Resulting Net Debt-to-GDP (%)			
Pension Plans	(2.4) / 39.7	(2.6) / 40.4	(2.8) / 40.9
Electricity Refinancing	(2.6) / 38.3	(3.0) / 39.2	(3.2) / 39.8
Total	(5.0) / 40.2	(5.6) / 41.3	(6.0) / 42.1

Note: Adopting the Auditor General's recommendation means that the opening net debt for 2017-18 must be restated upwards by $12.4 billion to $314.1 Billion

Scenario With Efficiencies

Average Annual Growth Rates 2018-19 to 2020-21
Total Revenue: 1.9%
Program Expense: 0.1%



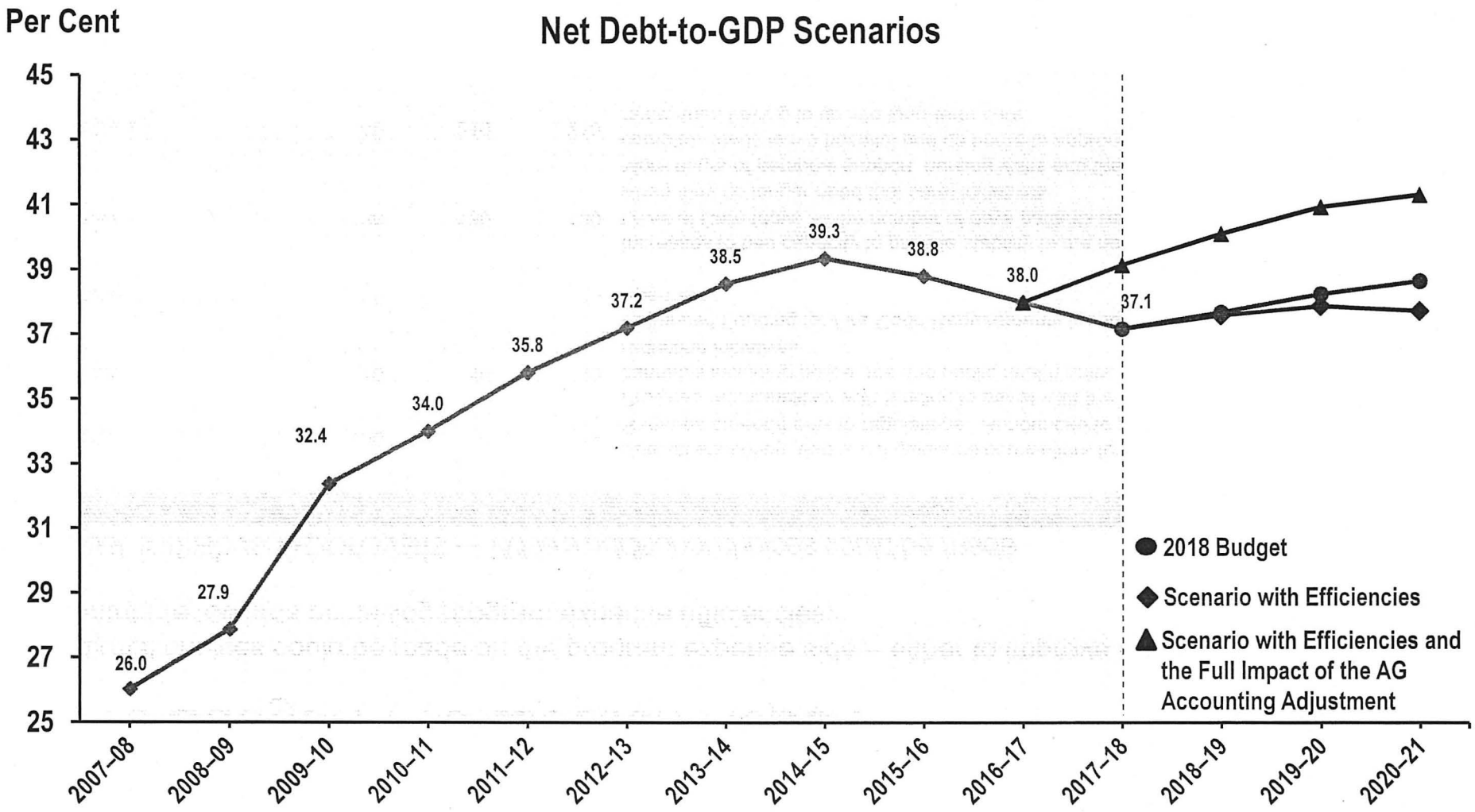
	2018-19	2019-20	2020-21
Resulting Net Debt-to-GDP (%)	37.5	37.8	37.7

Auditor General Accounting Adjustments ($ Billions) and Resulting Net Debt-to-GDP (%)

Pension Plans	(2.4) / 39.5	(2.6) / 40.0	(2.8) / 40.1
Electricity Refinancing	(2.6) / 38.1	(3.0) / 38.7	(3.2) / 38.9
Total	(5.0) / 40.1	(5.6) / 40.9	(6.0) / 41.2

Note: Adopting the Auditor General's recommendation means that the opening net debt for 2017-18 must be restated upwards by $12.4 billion to $314.1 Billion

Net Debt-to-GDP



Note: Adopting the Auditor General's recommendation means that the opening net debt for 2017-18 must be restated upwards by $12.4 billion to $314.1 Billion

Removing Additional Spending from the *2018 Budget / Pre-Election Report*

Additional choices could be made on the program expense side – either to improve the fiscal starting point or to contribute towards achieving program expense efficiencies.

Budget Initiative Approvals – *Where additional choices could be made*

	2018-19	2019-20	2020-21	Considerations
Education	100	–	–	Special education, additional guidance counsellors for grades 7 and 8, and mental health. Requires amendments to regulations. Announced to school boards in March, 2018.
Cannabis	40	40	30	Provides municipalities with funding to assist with the costs of legalization of recreational cannabis including police, fire and public health units. Also includes awareness and harm reduction initiatives.
Fire Code	15	–	–	Enhanced Funding for Fire Code Requirements for social services Transfer Payment Agencies.
Hospitals	130	130	130	Increases to bed capacity to provide stability to the hospital sector, supporting Alternate Level of Care [days — the number of days patients remain in acute-care hospital beds when they no longer need that care] initiatives.
Home Care	60	210	210	More hours of personal support, nursing visits and therapy visits to help clients with complex needs leave hospital and go home to appropriate care when they are ready, rather than having to go into long-term care.
Indigenous Supportive Housing Program	5	–	–	Enhanced Funding for Indigenous Supportive Housing Program.
Program Expense	**350**	**380**	**370**	

Note: For 2018-19, some funding may have already been spent.

Removing Additional Spending from the *2018 Budget / Pre-Election Report*

Recent Multi-Year Planning Approvals - *Where additional choices could be made*

	2018-19	2019-20	2020-21	Considerations
Post-secondary Education and Training	330	370	430	OSAP forecast update ($246M in 2018-19), the Apprenticeship Training Tax Credit/Graduated Apprenticeship Grant for Employers ($33M in 2018-19), graduate student enrollment ($28M in 2018-19); and Guelph and OCAD capital projects. Requires changes to program eligibility criteria and agreements with universities.
Education	205	215	230	Grants for Student Needs (GSN) – enrolment update and student transportation (total of $68M in 2018-19), communicated to school boards in March 2018. Includes 2018-19 growth in child care operating subsidies ($90M in 2018-19) announced to municipalities.
Health	215	215	215	Hospital base increase ($187M in 2018-19) and emergency health services ($29M in 2018-19). Pressures in hospitals and ambulance services.
Justice	135	100	100	Corrections – human rights settlement costs ($36M in 2018-19), Policing grants ($20M in 2018-19) announced in December 2017, new legislated police oversight requirements ($12M in 2018-19) and the creation of a serious fraud office ($11M in 2018-19).
Transportation	95	70	15	Updates to project schedules for Municipal Transit and 407 Municipal Projects; and updates to amortization costs. Funding also includes new Drive Test Centres and revised costs for road maintenance.
Other Updates				
Bill 148	270	15	15	Pressures from minimum wage identified by MAESD, EDU (child care), MAG, MCSS, MCYS, MOL and MTCS.
Tax Credit Updates	45	45	45	
All Other Changes	75	125	145	Major items include pension adjustments, MTCS capital projects changes, sprinklers in LTC, MNDM ROF – Matawa Broadband and New Roads and other items.
Program Expense	**1,370**	**1,155**	**1,195**	

Note: For 2018-19, some funding may have already been spent.

Recovery Plan

- Per the requirements of the Fiscal Transparency and Accountability Act (FTAA), if the government plans for a deficit, it must develop a recovery plan for achieving a balanced budget in the future.
- The Financial Accountability Officer's Report projected that the Provincial deficit would most likely grow beyond 2020-21, rather than return to balance – unless the government took concerted action.
- Restoring fiscal health to Ontario's finances will require choices about the underlying fiscal trajectory of the province.
- An independent review to obtain fiscal and budgetary policy advice could help inform the next phase of Ontario's fiscal planning, including an approach to building a recovery plan.

Immediate Next Steps, Management Strategies and Tools

Next steps and key strategies/tools for managing risks and the overall fiscal plan could include:

1. **Taking Immediate Action to Implement Expenditure Restraint**
   - Immediate freeze on spending on 2018 Budget initiatives and other discretionary spending; hiring freeze except for essential services; and freeze all contracts.
2. **Establishing an Independent Fiscal Commission,** which could:
   - Assess the fundamentals of Ontario's existing budgetary/fiscal construct and legislative framework;
   - Support a review of the underlying revenue forecast; and/or
   - Provide advice to inform Ontario's fiscal planning and financial reporting.
3. **Determining the Accounting Treatment for 2017-18 Public Accounts**
   - 2017-18 fiscal year results to be finalized in the Public Accounts, typically released by the end of September, according to the FAA. The government will need to determine if it will make policy decisions prior to release in order to address major accounting issues raised by the AG (i.e. treatment of net pension assets and electricity refinancing). The Independent Fiscal Commission could help inform how to proceed with the accounting treatment.
4. **Initiating a Line-by-Line Review**
   - Government could conduct a Line-by-Line review, including a value-for-money audit, of new and existing programs to ensure it aligns with priorities.
5. **Reviewing Policy Priorities and New Investments**
   - A review of policy priorities and new investments could help determine the scope, scale and timing for implementation of tax cuts and spending priorities.
6. **Reviewing Use of Prudence**
   - The government could adjust prudence measures, depending on the overall risk environment and on risk associated with underlying assumptions of the revenue forecast and ministry allocations.

Other Next Steps and Decisions/Considerations

Going forward, the government will need to make decisions on fiscal planning and reporting:

- Decisions will need be made regarding the government's **first public fiscal update,** potentially with a focus on 2018-19 fiscal year.
  - **Expenditures Estimates** for 2018-19 will need to be tabled during the next Legislative session. The government may choose to retable the Estimates originally tabled on April 23, 2018, or table new/revised Estimates to reflect immediate expenditure actions.
  - **First Quarter Finances**, which provides an update on the 2018-19 fiscal year, is required under FTAA to be released by August 15, 2018.
- The government will need to **confirm by mid-June the reversal of 2018 Budget tax measures** that are currently on track to start being deducted in July by the Canada Revenue Agency.
- **Surplus/deficit targets** will likely need to be established early on in order for the Minister of Finance to communicate fiscal targets for 2018-19, and to support the resumption of the Province's borrowing program and discussions with rating agencies and investors.
- A **framework and planning process** will need to be established to support planning for fiscal years 2018-19 to 2020-21 and balancing the budget, which could be included in a mid-year fiscal review (fall 2018) and the 2019 Budget (spring 2019).

Appendix

Starting Point - Excluding New Initiatives and Prudence

In order to establish a program expense starting point, the following new initiatives and program base adjustments for demand are removed, and prudence adjustments are made to the outlook.

Program Expense Starting Point			
($ Millions)	2018-19	2019-20	2020-21
2018 Pre-Election Report – Program Exp.	145,922	150,427	155,760
New Initiatives	(1,319)	(3,932)	(6,801)
Other Adjustments, including:	(766)	(738)	(1,149)
Remove Compensation Set-Aside	*(446)*	*(738)*	*(1,149)*
Remove Portion of some land claims	*(320)*	–	–
Program Base Adjustments for Demand	(97)	(348)	(386)
Total Program Exp. Changes	(2,183)	(5,017)	(8,336)
Starting Point – Program Exp.	143,739	145,410	147,424

Reserve Starting Point			
($ Millions)	2018-19	2019-20	2020-21
2018 Pre-Election Report – Reserve	700	700	700
Reserve Reversal	(700)	(700)	(700)
Starting Point – Reserve	–	–	–

- Reverse any discretionary spending from the program base and new initiatives from the *2018 Budget* and *2017 FES*.
- Contingency Fund remains consistent with the *2018 Budget* – reflecting risks not included in ministry allocations – except for the reversal of compensation set-asides and some land claims.
  - Results in a starting point contingency fund of $0.8 billion in 2018-19, $1.9 billion in 2019-20 and $2.5 billion in 2020-21 (includes PTIF held centrally).
- Capital Plan is consistent with the 2018 Budget, aside from reversal of budget initiatives associated with infrastructure expenditures.
- Cap & Trade is consistent with the 2018 Budget.
- Generally speaking, spending related to federal-provincial flow-throughs has been maintained, particularly where agreements with the federal government have been signed.
- Reserve has been reversed.

Program Expense items *Not* Included in Starting Point

($millions)	2018-19	2019-20	2020-21	Considerations
New Initiatives				
Economic Development and Apprenticeship	(177)	(184)	(183)	Investments in post-secondary programming, apprenticeship and job training programs; Ontario Innovation tax credit enhancement and top-up of the Jobs and Prosperity Fund. Majority of 2018-19 funding on holdback.
Mental Health	(171)	(417)	(634)	Investments for a broad range of programs, services and supports (e.g. access to therapy programs, development a provincial structured psychotherapy program, and the development of youth wellness hubs.
Developmental Services	(194)	(492)	(682)	Support for community-based agencies and funding for new and existing initiatives, including expanding passport to provide a minimum of $5,000 annually per person, introducing case management supports, transitioning inappropriately housed individuals and providing increased residential spaces.
Autism	(62)	-	-	Maintaining the same funding level as 2017-18.
Ontario Drug and Dental Program	(9)	(294)	(508)	Creation of a drug and dental benefit program for individuals and families without prescription drug and/or dental benefits effective August 2019.
Income Security System Reform	(329)	(727)	(1,253)	Investments, including multi-year rate increases of three percent in both Ontario Disability Support Program and Ontario Works; two percent increases to the Comfort Allowance for low-income seniors in long-term care homes and the Personal Needs Allowance for other low income people living in institutions or shelters; a multi-year plan to transform the social assistance rate structures; and multi-year adjustments to income and earning exemptions.
Child Care expansion and Other Education Investments	(19)	(423)	(1,768)	Child Care – On Reserve; Free Preschool (Starting September 2020); Workforce Compensation; General Operating Funding; 100,000 Spaces Growth Funding; and Innovation Fund. Amounts also include K-12 Education investments (2019-20 and 2020-20 funding for special education and guidance counsellors);
Correctional Services Transformation	(57)	(80)	(79)	Support for initiatives such as community justice centres, expansion of bail beds, community re-integration, and implementing new legislation (for example: expanded justice video network for inmates contact and enhanced healthcare staffing).
Support for Seniors to Live Independently	-	(350)	(350)	Investments to support seniors to cover home maintenance.
Eliminate co-pay for Seniors	-	(373)	(577)	Investment to eliminate annual deductible and co-pay for eligible seniors in the Ontario Drug Benefit program effective August 1, 2019
Long-Term Care Quality and Staffing	(20)	(75)	(125)	Investments to support moving towards 4 hours of care.
Seniors Strategy	(26)	(61)	(61)	Includes multi-ministry investments (Seniors; Attorney General; Health; Citizenship and Immigration; Tourism Culture and Sport; and Status of Women)
Support for Youth Employment	(28)	(55)		Investment to support employer hiring and retention for youth ages 15 to 29 years, working with Employment Service and Youth Job Connection. Program began in January 2018.
Lowering Costs for the Horticultural Sector	(30)	(30)		Supports for small and medium-sized fruit and vegetable farming businesses.
Other Changes	(197)	(371)	(581)	Includes support for Personal Support Workers, Northern Ontario Heritage Fund Corporation Enhancement, Artificial Intelligence Talent, GO Transit base fare reduction, Ontario's Public Libraries, Great Lakes Science, Ontario Bridge Training Program and Enhance Cyber Security in the Ontario Public Service.
Program Expense	**(1,319)**	**(3,932)**	**(6,801)**	

Program Expense items *Not* Included in Starting Point

($millions)	2018-19	2019-20	2020-21	Considerations
Program Base Adjustments for Demand				
Child Care	(25)	(90)	(90)	100,000 Spaces Growth Funding.
Gender-based Violence Strategy	(21)	(80)	(110)	Ministry of the Attorney General, Ministry Status of Women and Ministry of Community and Social Services investment to support initiatives such as counselling, enhancing access to safe spaces, transitional housing supports, victim services programs and professional development expansion.
Women's Economic Empowerment Strategy	(7)	(18)	(17)	Various investments to increase pay transparency, increase women's representation in corporate leadership and promote gender equality. Includes enhanced funding for women's centres.
Other Changes	(44)	(160)	(169)	Includes French Language University, Child Care Information Technology Projects & Sustainment Requirement, Achieving Excellence for the Whole Learner, Intervenor and Interpreter Services, Ontario Arts Council, Serious Fraud Office and Horse Racing.
Program Expense	**(97)**	**(348)**	**(386)**	

Program Expense Items *Remaining in* Starting Point

($ millions)	2018-19	2019-20	2020-21	Considerations
Program Base Adjustments				
Education – Grants for Student Needs (GSN)	58	110	143	Funding tied to student enrollment, which is projected to increase by approximately 1% per year from 2017-18 to 2021-22. Amendments to the GSN require regulation changes.
Developmental Services: Intake of Crown Wards Transition Aged Youth and Urgent Cases	30	88	146	Additional funding required to maintain the annual intake of Crown Ward Transition Aged Youths and urgent cases of developmentally disabled individuals.
Developmental Services: Intake of youth with Complex Special Needs	22	24	27	Revised cost estimates related to the intake of youth with Complex Special Needs ($40,000 higher per person).
Transformational Opportunity: SA Program Integrity	6	7	7	Expected outcomes include long-term efficiencies
Re-profile of Municipal Transit Projects	(69)	(140)	(201)	
Highway Maintenance Services Procurement and Report	7	38	48	Procurements to establish highway maintenance contracts for five regions across Ontario.
Other Adjustments				
Pension Adjustments	9	(190)	(422)	TPP; CAATT; TBS pension updates
Ontario Electricity Financial Corporation Update	(142)	(167)	(170)	Updates to reflect changes in OEFC forecast, including the suspension or early termination of certain power supply contracts.
Consolidations Updates	260	280	394	

Details of Additional Risks to the Outlook - Expense

The plan includes contingency funds in each year to help mitigate risks that may otherwise have a negative impact on the fiscal results:

Examples of potential for C-Fund offset	To be Managed
Postsecondary and Training Sector	**Health Sector**
• OSAP	• Health Risks (e.g., demand pressures)
Children's and Social Services Sector	**Justice Sector**
• Social Assistance Forecast	• Grants to municipalities for policing
• Autism	**Compensation**
• Children's Aid Societies	• Ontario Medical Association
Justice Sector	• Corrections
• Correctional Services Staffing	• Ontario Provincial Policing Association (OPPA)
• Responding to Corrections Class Action lawsuit	• Teachers
• Other justice, including caseloads/investigations	
Other Programs Sector	
• Land Claims	
• Energy Distribution Rate Protection Program	
• Agricultural Business Risk Management	
• Emergency Forest Fire Fighting	
• Ring of Fire	
• Public Transit Infrastructure Fund	

Details of Additional Risks to the Outlook - Key Revenue Forecast Risks

Standard Revenue Risks	Risk Assessment	Revenue Impact
Economic Growth	Typical range +/- 1%	+/- $1B
2017 Tax Assessments – PIT	Typical range +/- 1%	+/- $0.4B
2017 Tax Assessments – CIT	Typical range +/- 5%	+/- $0.8B
2017 HST Entitlement	Typical range +/- 2%	+/- $0.5B
Housing Market	Typical range +/- 10%	+/-$0.5B
LCBO/OLG Net Income	Tendency to be cautious	$0-$0.2B
Specific Current Revenue Risks		**Revenue Risk**
2017 PIT Rebound		Up to -$0.6B
Corporate Income Shifting		Up to -$0.8B
2018 Housing Market Performance		Up to -$0.3B
PIT Related to Minimum Wage		Up to -$0.2B

Fiscal Scenario – Details on Tax Cuts

$ Millions	2018-19	2019-20	2020-21
Tax Cuts			
Tax Credit of 75% for Child Care Costs	(389)	(389)	(389)
Lower Small Business rate by 8.7%	-	(60)	(60)
Cut Business Taxes from 11.5% to 10.5%	-	(1,300)	(1,300)
Cut Gasoline Tax by 10 cents a litre	(1,190)	(1,190)	(1,190)
Cut Middle class taxes by 20% 3rd year of term	-	-	(2,260)
Introduce a Minimum Wage Tax Credit	(558)	(558)	(558)
Reduce Aviation Fuel Tax	(11)	(11)	(11)
Total Tax Cuts	**(2,148)**	**(3,508)**	**(5,768)**

Fiscal Scenario – Program Expense Initiatives

Program Expense Measures	2018-19	2019-20	2020-21
Pay for Conservation Programs using Tax Base	433	433	433
Return H1 dividend payments to families	350	350	350
Maintain current funding for Two-Way Go/Regional Transit Projects	[TBD]	[TBD]	[TBD]
Upload cost of subway infrastructure + new subway funding	[TBD]	[TBD]	[TBD]
Highway Improvement Plan	[TBD]	[TBD]	[TBD]
Risk Management Program	-	-	50
Cost for V4M Audit and Commission of Inquiry	[TBD]	[TBD]	[TBD]
Challenge in Supreme Court Federal Imposition of Carbon Tax	[TBD]	[TBD]	[TBD]
Cancel Jobs & Prosperity Fund	(270)	(270)	(270)
LTC beds	[TBD]	[TBD]	[TBD]
Support for Mental Health, Addictions, and Housing	190	190	190
Dental Care for low income seniors	98	98	98
Autism	[TBD]	[TBD]	[TBD]
Bring Back Passenger Rail to the North	[TBD]	[TBD]	[TBD]
Creating a Cleaner Ontario	[TBD]	[TBD]	[TBD]
Funding for anti-gang and anti-gun units	3	3	3
Fighting organized crime and respecting the vulnerable	[TBD]	[TBD]	[TBD]
Hire more corrections, probation and parole officers	-	30	30
Resource Revenue Sharing (North)	-	30	30
Total Program Expense Measures	**804**	**864**	**914**
Additional program expense efficiencies required to achieve savings of 2%, 3%, and 4% respectively over the outlook	(1,478)	(2,495)	(3,929)
Total Program Expense Measures with Efficiencies	**(674)**	**(1,631)**	**(3,015)**

Fiscal Scenario - Surplus/(Deficit)

Surplus/(Deficit) Before Applying Efficiencies

$ Millions	2018-19	2019-20	2020-21
Starting Point	**(4,388)**	**(1,464)**	**2,335**
Total Tax Cuts	(2,148)	(3,508)	(5,768)
Program Expense Measures	804	864	914
Net Impact of Cap and Trade Removal	[TBD]	622	644
Interest on Debt Change	78	286	623
Reserve	[TBD]	[TBD]	[TBD]
Total Surplus/(Deficit)	**(7,418)**	**(6,743)**	**(5,614)**

Surplus/(Deficit) with Efficiencies

$ Millions	2018-19	2019-20	2020-21
Starting Point	**(4,388)**	**(1,464)**	**2,335**
Total Tax Cuts	(2,148)	(3,508)	(5,768)
Program Expense Measures	804	864	914
Program Expense Efficiencies	(1,478)	(2,495)	(3,929)
Net Impact of Cap and Trade Removal	[TBD]	622	644
Interest on Debt Change	52	183	372
Reserve	[TBD]	[TBD]	[TBD]
Total Surplus/(Deficit)	**(5,914)**	**(4,145)**	**(1,434)**

FALL FISCAL PLANNING

Office of the Budget
MINISTRY of FINANCE

OFFICE OF ECONOMIC POLICY
OEP
MINISTRY OF FINANCE

TBS

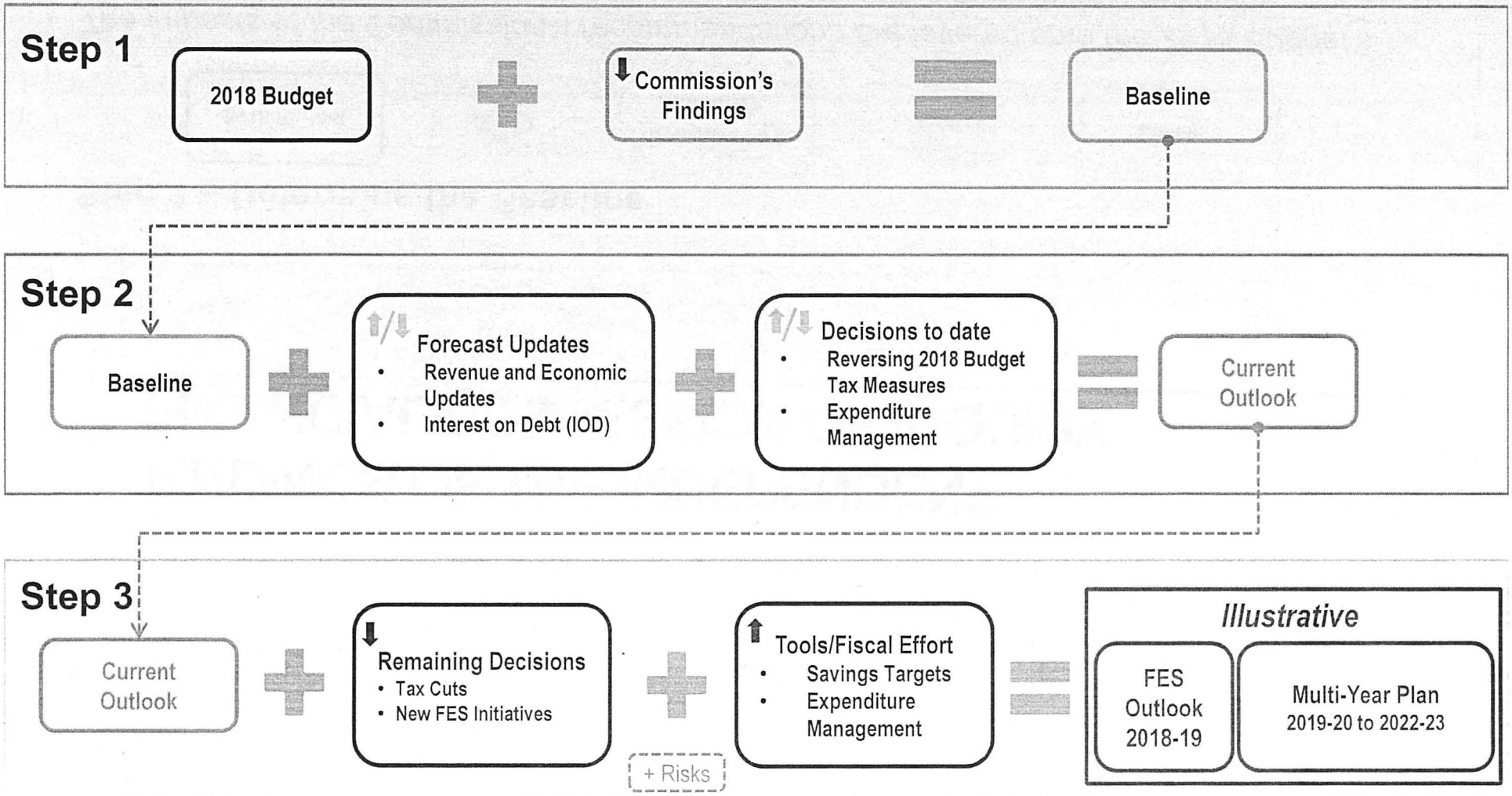
Draft, October 1, 2018 12:30 PM

Tabled min + min

Purpose

- Initiate fall fiscal planning by providing an overview of Ontario's fiscal position and updating for key inputs:
  - ***Establish a baseline*** fiscal outlook that is informed by the findings of the Financial Commission of Inquiry
  - Adjust for ***information updates and early decisions*** taken by government to present the ***current outlook***
  - Present illustrative scenarios to foreshadow the ***impacts of decisions*** required to determine the ***Fall Economic Statement and Multi-Year Planning Outlook***
- Outline principles and key decisions that will guide fiscal planning and inform the Fall Economic Statement and the multi-year planning process.

Steps to Updating the Fiscal Outlook



⬆ Potential fiscal benefit (improvement)

⬇ Potential fiscal pressure (deterioration)

⬆/⬇ Potential fiscal benefit/pressure direction unclear (improvement or deterioration)

FINDINGS OF THE INDEPENDENT FINANCIAL COMMISSION OF INQUIRY

Step 1 – Determine the Baseline

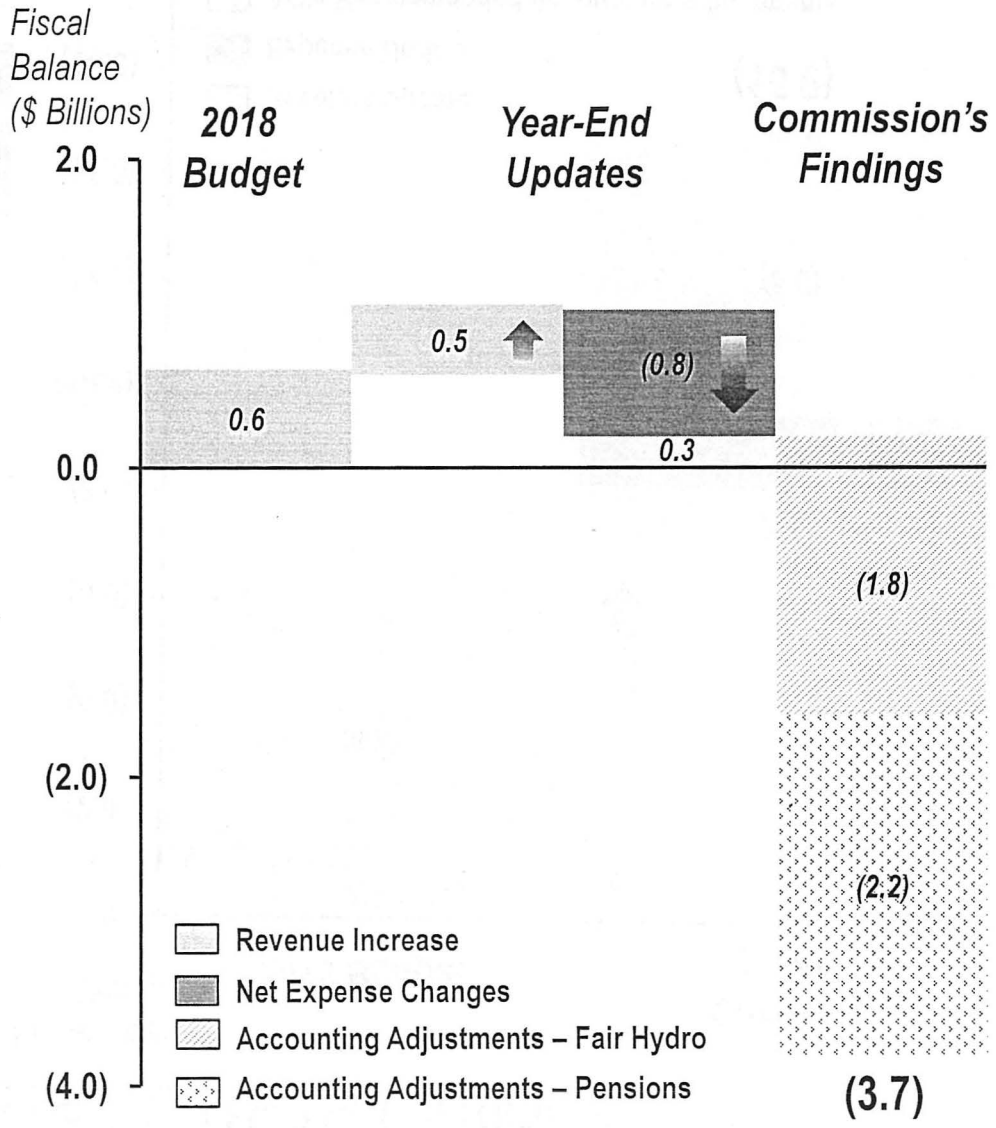


The impacts of the Commission's recommendations are layered onto the 2018 Budget's medium-term outlook. This "baseline" outlook represents a point in time estimate of what the deficit would be if no government actions were taken.

Finalized 2017-18 Public Accounts

Commission Findings

Accounting Adjustments: 2017-18 Public Accounts reflect adjustments for electricity refinancing and two public sector pension plans which each have a fiscal impact of $1.8 billion and $2.2 billion respectively.



*Numbers may not add to rounding

Breakdown of Commission's 2018-19 Outlook

2018 Budget Deficit for 2018-19
(6.7) billion

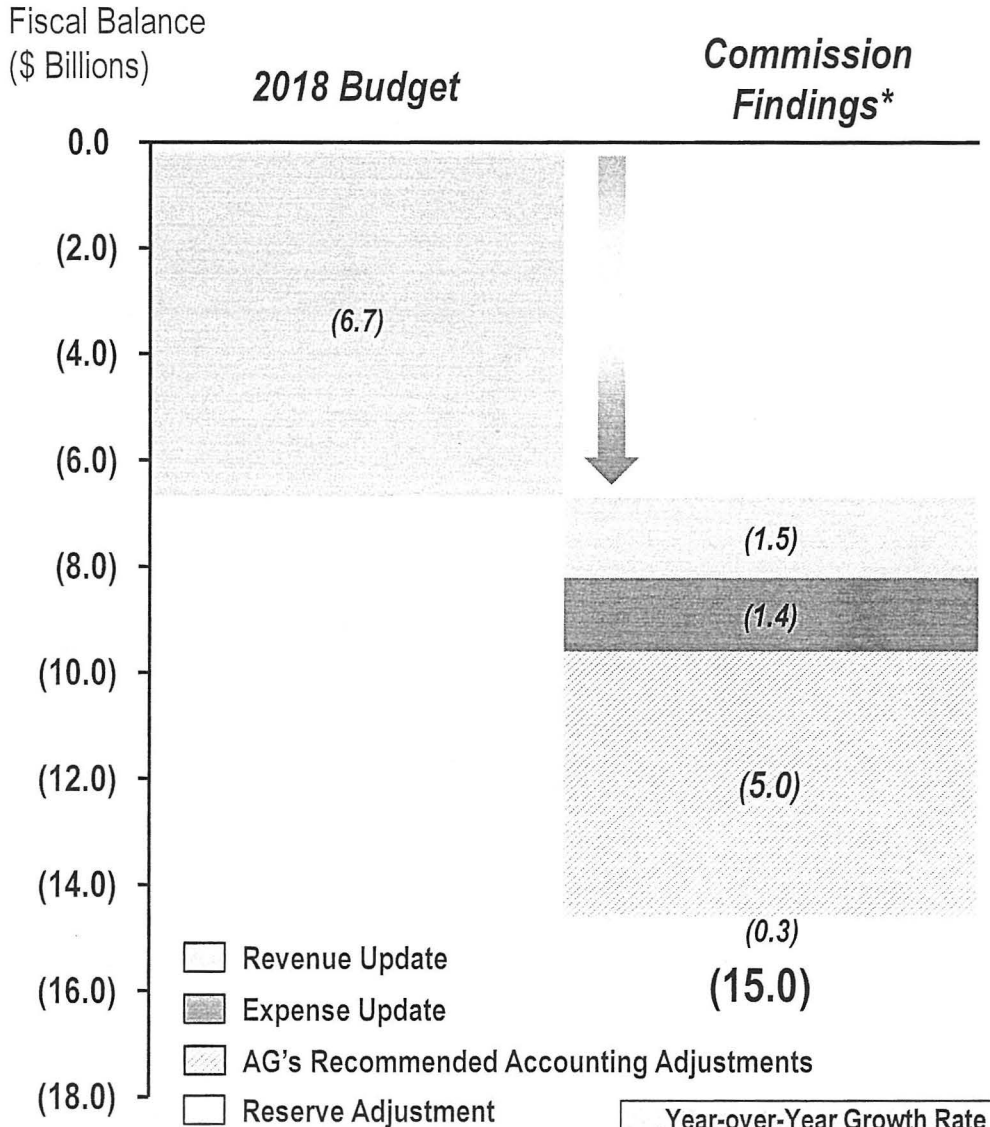
Revenue Update
(1.5) Billion

Expense Update
(Reversed Savings Targets)
1.4 billion

AG Accounting Adjustments
5.0 billion

Reserve Adjustment
0.3 billion

Commission's Revised Fiscal Outlook for 2018-19
(15.0) billion



Year-over-Year Growth Rate
2017-18 to 2018-19
Total Revenue: 0.2 %
Program Expense: 7.0 %

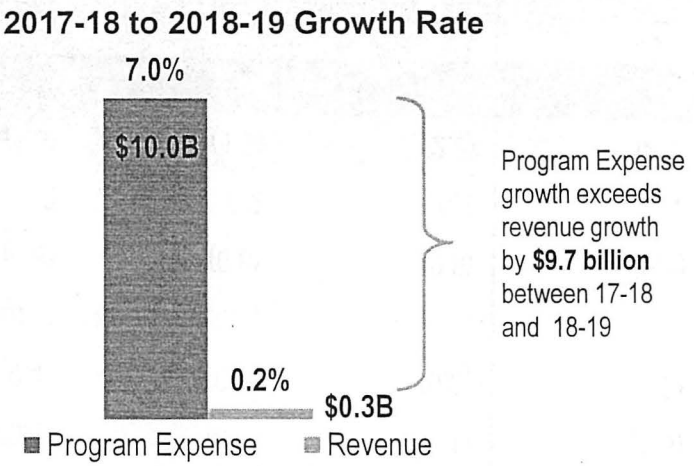
* Note: Does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

Why is the Commission's 2018-19 Deficit so Much Bigger than 2017-18?

($B)*	Actuals 2017-18	Commission Outlook 2018-19	Change
Revenue	**150.6**	**150.9**	***0.3***
Expense			
Programs	142.4	152.4	*10.0*
Accounting Adjustments:			
Pension Plans	*2.2*	*2.7*	*0.4*
Fair Hydro Plan	*1.8*	*2.4*	*0.6*
Interest on Debt	11.9	12.5	*0.6*
Total Expense	**154.3**	**164.9**	***10.6***
Surplus/(Deficit) before Reserve	**(3.7)**	**(14.0)**	***(10.3)***
Reserve	-	1.0	*1.0*
Surplus/(Deficit)	**(3.7)**	**(15.0)**	***(11.3)***
Net debt-to-GDP	**39.0%**	**40.5%**	

*Numbers may not add due to rounding

Significant decline in Y-O-Y revenue growth combined with significant Y-O-Y Program Expense growth contribute to rapidly deteriorating 2018-19 outlook



Revenue growth is expected to increase only 0.2% between 2017-18 and the Commission's recommended outlook for 2018-19. This is due to the decline in a number of revenue sources:

- Sales & Rentals related to asset sales (-$1.0 billion)
- Income from Government Business Enterprises (-$0.9 billion)
- Corporations Tax income shifting (-$0.8 billion)
- Land Transfer Tax (-$0.5 billion)
- Equalization (-$0.5 billion)
- Carbon allowance proceeds (-$0.4 billion)

Interest on Debt adds $0.6 billion to expense in 2018-19

The Commission's 2018-19 **program spending forecast** maintains the significant new investments made in the 2018 Budget, resulting in year-over year growth of 7.0%:

- $0.6 billion investments in developmental services and income security reform
- $1 billion in hospitals, mental health, and home and community care
- C-funds in 2018-19 add $1.6 billion to program expense
- Commission outlook removed savings targets, adding $1.4 billion to program expense
- Commission recommended accounting changes grow by $1 billion between 17-18 and 18-19

Reserve of $1 billion is included in 2018-19 which further increases the deficit

Impact of Commission's Findings over the Medium-Term

Extending the impact of the Commission's recommendations for 2018-19 over the medium term results in a deterioration to the outlook for 2019-20, 2020-21, and 2021-22, compared with the *2018 Budget*.

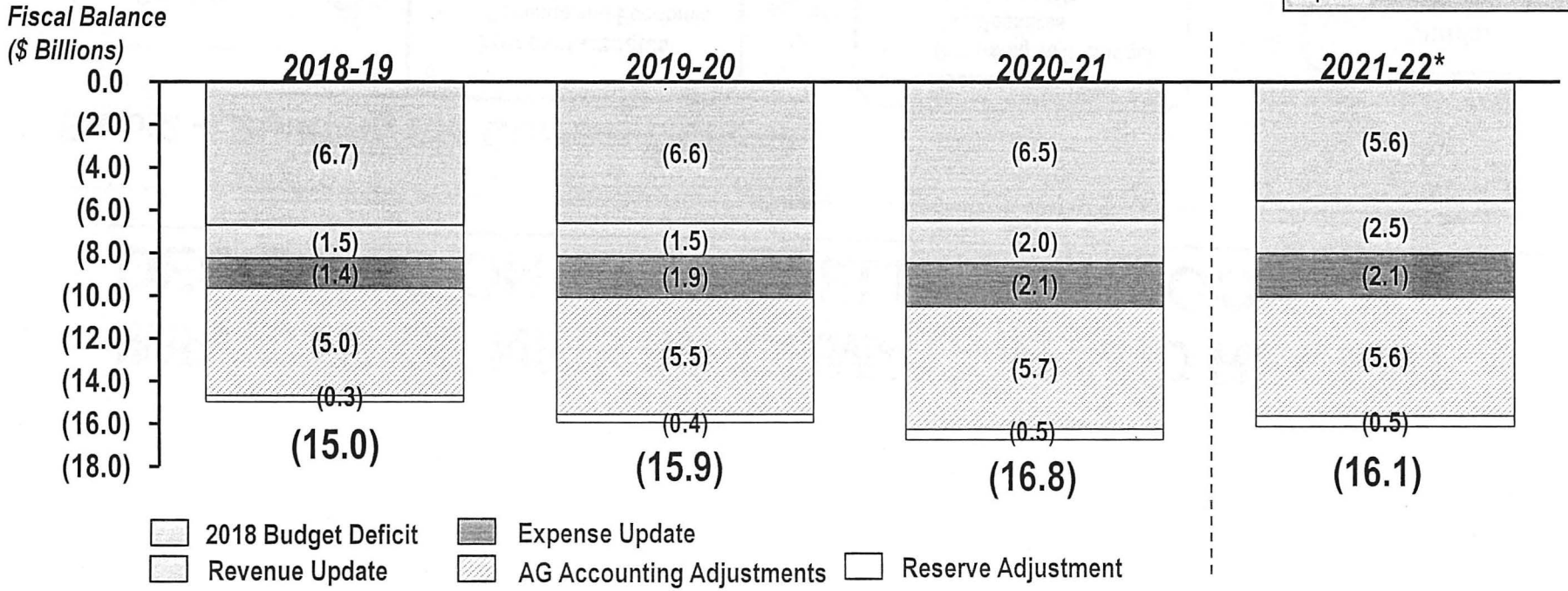
	Commission's Outlook	Extending Commission's Recommendations over Medium Term		
($ Billions)	**2018-19**	**2019-20**	**2020-21**	**2021-22**
Revenue Adjustments				
Slower economic growth	(0.4)	(0.6)	(1.1)	(1.5)
Lower housing market resales	(0.4)	(0.2)	(0.2)	(0.2)
Minimum wage increase	(0.1)	(0.1)	(0.1)	(0.1)
Corporate income shifting	(0.8)	(0.8)	(0.8)	(0.8)
2017 Income Tax Assessments	0.2	0.2	0.2	0.2
Total Revenue Adjustments	**(1.5)**	**(1.5)**	**(2.0)**	**(2.5)**
Expense Adjustments				
Reversed Savings Targets	1.4	1.9	2.1	2.1
AG Accounting Recommendation – Pension plans	2.7	3.0	3.3	3.4
AG Accounting Recommendation – Fair Hydro Plans	2.4	2.5	2.5	2.2
Total Expense Adjustments	**6.4**	**7.4**	**7.8**	**7.6**
Reserve Adjustment	**0.3**	**0.4**	**0.5**	**0.5**
Total	**(8.3)**	**(9.3)**	**(10.3)**	**(10.6)**

*Numbers may not add to rounding

Impact of Commission's Findings over the Medium-Term

Continuing with the Commission's baseline for 2018-19 into the out-years shows that the underlying, structural fiscal challenge does not solve itself – however, it is important to note that the Commission forecast is a starting point baseline for planning – it does not take into account any approaches to undoing the key components of the *2018 Budget* forecast.

Average Annual Growth Rates	2018-19 to 2020-21	2018-19 to 2021-22
Total Revenue	3.6%	3.4%
Program Expense	3.6%	3.1%

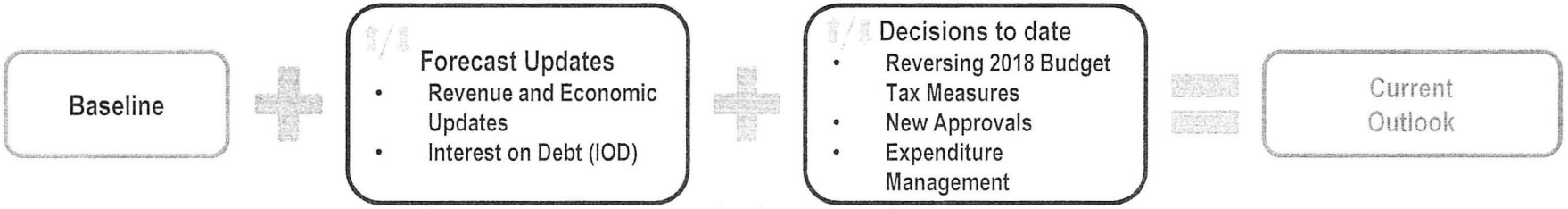


Net Debt-to-GDP (%)	*40.5*	*42.1*	*43.7*	*45.3*
Prudence Levels				
Contingency Fund	*1.6*	*1.9*	*2.5*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

*Note: 2021-22 is based on the *2018 Budget* recovery plan, which falls outside the range of the medium-term outlook. As a result, projections are not driven by policy decisions or analysis, and therefore may contain differential risk that could underestimate the deficit projection.
Also does not include impact of IOD as the commission did not make IOD adjustments based on their revised deficit.

IMPACTS OF NEW INFORMATION AND RECENT DECISIONS ON THE BASELINE OUTLOOK

Step 2 – Building the Current Outlook



The government has already undertaken a number of actions to achieve savings and efficiencies. Additional expenditure management initiatives and refinements to existing programs will also be made in the coming weeks. In addition, economic and revenue updates have occurred since information was shared with the Commission of Inquiry. Layering on these impacts with the reversal of the 2018 Budget tax measures results in the "current outlook" which reflects known information and decisions.

Revenue Forecast Updates and New Decisions

- Economic growth, the reversal of *2018 Budget* tax measures and other decisions, including the wind down of the Cap and Trade program, have deteriorated the revenue outlook relative to the baseline.

($ Billions)	2018-19	2019-20	2020-21	2021-22
Forecast Updates				
Economic Update	(0.4)	(0.7)	(0.4)	0.3
2016 and Prior Year Income Tax Assessments	0.5	--	--	--
Total Forecast Updates	**0.2**	**(0.7)**	**(0.4)**	**0.3**
Impact of New Decisions – In-Year Approvals				
OPG / HOL Net Income	(0.1)	(0.1)	(0.2)	(0.2)
Cap-and-Trade	(1.5)	(1.9)	(1.7)	(1.7)
Past Budget Tax Measures[1]	(0.3)	(0.5)	(0.6)	(0.6)
Treasury Board Approvals[2]	0.0	(0.0)	(0.0)	(0.0)
Total In-Year Approvals	**(1.9)**	**(2.6)**	**(2.5)**	**(2.5)**
Total Revenue Change	**(1.7)**	**(3.3)**	**(3.0)**	**(2.2)**

[1] Includes the reversal of the PIT surtax adjustment, Ontario Research and Development Tax Credit, tax measures targeting the Employer Health Tax exemption to small employers, Small Business Limit, Beer and Wine tax and the $4/carton increase in Tobacco Tax.

[2] Includes the deferral of driver's license and examination fees, higher administrative monetary penalties for impaired driving.

Impact of New Investments and Expense Savings

- Program expense changes reflects government decisions that have been approved or are tracking for approval by TB/MBC.

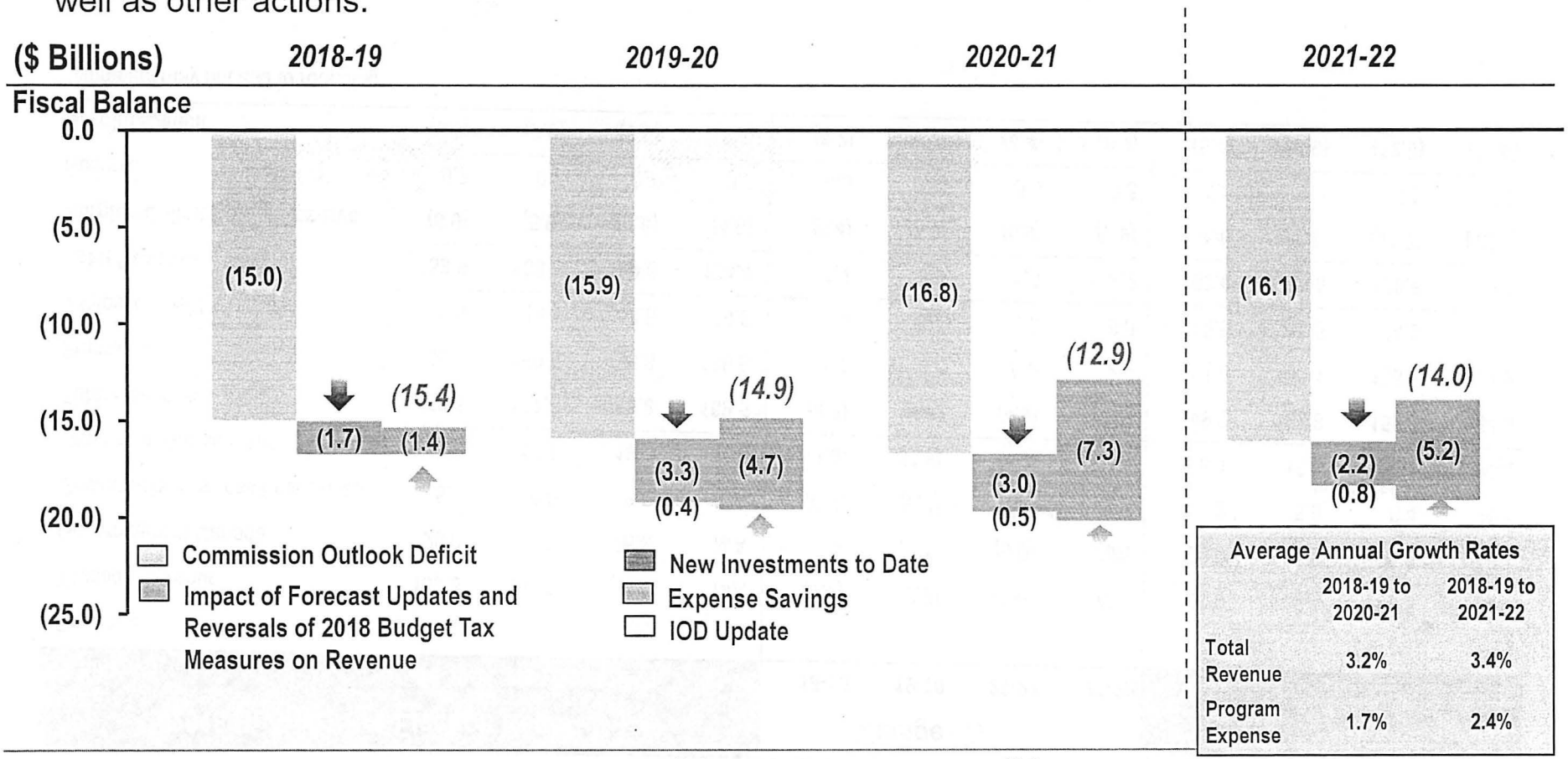
($ Billion)	2018-19	2019-20	2020-21	2021-22
Impact of New Investments – In-Year Approvals				
Emergency Firefighting*	—	—	—	
Resource Revenue Sharing Agreements*	—	—	—	
Total Impact of New Investments – In-Year Approvals	—	—	—	—
Program Expense Savings – In-Year Approvals				
Social Assistance Cost of Living Adjustment (decrease rate for recipients)	(0.3)	(0.6)	(1.1)	
Ontario Prescription Drug and Dental Program (scale back)	(0.0)	(0.3)	(0.5)	
OHIP + to Seniors (scale back)	—	(0.4)	(0.6)	
Child Care Funding Program Adjustments (increase limitations and streamline process)	(0.0)	(0.2)	(1.5)	
Grants for Student Needs (GSN) (repurpose funding)	(0.0)	(0.1)	(0.2)	
All Other Approvals	(0.1)	(0.2)	(0.1)	
Total Program Expense Savings – In-Year Approvals	**(0.5)**	**(1.8)**	**(4.1)**	**(1.2)**
Program Expense Savings – Items Tracking for Approval, including:				
Mental Health & Addiction	(0.1)	(0.1)	(0.2)	
Senior Healthy Homes Credit	—	(0.4)	(0.4)	
Developmental Services	—	(0.3)	(0.4)	
Ontario's R&D Tax Credit - Innovation	(0.0)	(0.0)	(0.0)	
All Other Tracking	(0.0)	(0.9)	(1.1)	
Total Program Savings – Items Tracking for Approval	**(0.1)**	**(1.6)**	**(2.1)**	**(3.1)**
Estimated Expense Impact of Winding-Down Funded out of Cap-and Trade	**(0.7)**	**(1.3)**	**(1.1)**	**(0.9)**
Total Program Expense Change including Cap & Trade	**(1.4)**	**(4.7)**	**(7.3)**	**(5.2)**

*Assumes item will be offset from contingency fund

*Numbers may not add to rounding

Impact of New Decisions/Information Result in Current Outlook

- The current outlook builds off of the Commission's outlook (grey bar), and layers on approvals to date (both expenditure management decisions and decisions to reverse *2018 Budget* measures), as well as other actions.



Net Debt-to-GDP (%)	*40.5*	*42.0*	*43.0*	*44.3*
Prudence Levels				
Contingency Fund*	*1.5*	*1.8*	*2.2*	*N/A*
Savings Targets	*0.0*	*0.0*	*0.0*	*0.0*
Reserve	*1.0*	*1.1*	*1.2*	*1.2*

*Contingency fund level reflects in-year approval changes

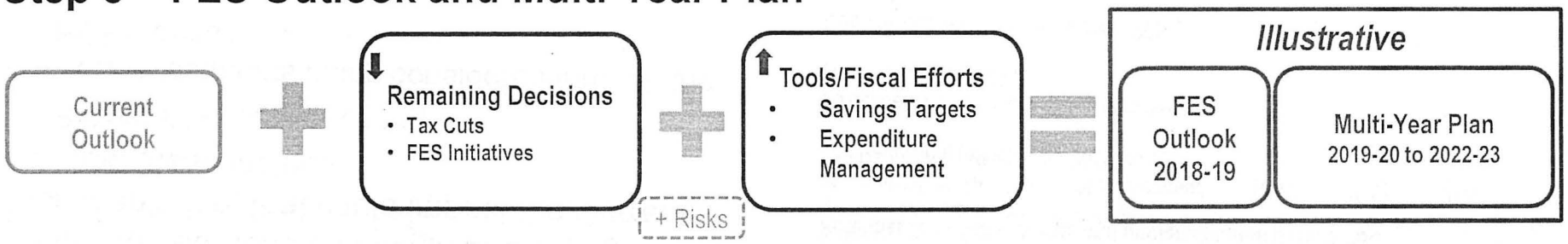
Crosswalk from *2018 Budget/Pre-Election Report* to the Current Outlook

2018 Budget / Pre-Election Report (A)					Change (B) – (A)				Current Outlook (B)			
($ Billions)	18-19	19-20	20-21	21-22	18-19	19-20	20-21	21-22	18-19	19-20	20-21	21-22
Revenue												
Taxation Revenue	103.6	108.1	112.4	N/A	*(1.7)*	*(2.7)*	*(3.0)*	*N/A*	101.9	105.4	109.5	N/A
Government of Canada	26.0	25.7	26.8	N/A	–	*(0.1)*	*(0.0)*	*N/A*	26.0	25.7	26.8	N/A
Government Business Enterprises	5.3	6.0	6.6	N/A	*(0.1)*	*(0.1)*	*(0.2)*	*N/A*	5.2	5.9	6.4	N/A
Other Non-Tax Revenue	17.6	17.7	18.0	N/A	*(1.5)*	*(1.9)*	*(1.8)*	*N/A*	16.1	15.8	16.3	N/A
Total Revenue	**152.5**	**157.6**	**163.8**	**169.5**	***(3.3)***	***(4.8)***	***(4.9)***	***(4.7)***	**149.2**	**152.8**	**158.9**	**164.8**
Programs	145.9	150.4	155.8	159.5	*5.1*	*2.7*	*0.5*	*2.4*	151.0	153.1	156.3	161.9
Interest on Debt	12.5	13.1	13.8	14.9	–	*0.4*	*0.5*	*0.8*	12.5	13.5	14.3	15.7
Total Expense	**158.5**	**163.5**	**169.6**	**174.4**	***5.1***	***3.1***	***1.0***	***3.2***	**163.6**	**166.6**	**170.6**	**177.6**
Surplus/Deficit Before Reserve	**(6.0)**	**(5.9)**	**(5.8)**	**(4.9)**	***(8.4)***	***(7.9)***	***(5.9)***	***(7.9)***	**(14.4)**	**(13.8)**	**(11.7)**	**(12.8)**
Reserve	0.7	0.7	0.7	0.7	*0.3*	*0.4*	*0.5*	*0.5*	1.0	1.1	1.2	1.2
Surplus/Deficit	**(6.7)**	**(6.6)**	**(6.5)**	**(5.6)**	***(8.7)***	***(8.3)***	***(6.4)***	***(8.4)***	**(15.4)**	**(14.9)**	**(12.9)**	**(14.0)**

*Numbers may not add to rounding

ILLUSTRATIVE SCENARIOS FOR PLANNING

Step 3 – FES Outlook and Multi-Year Plan

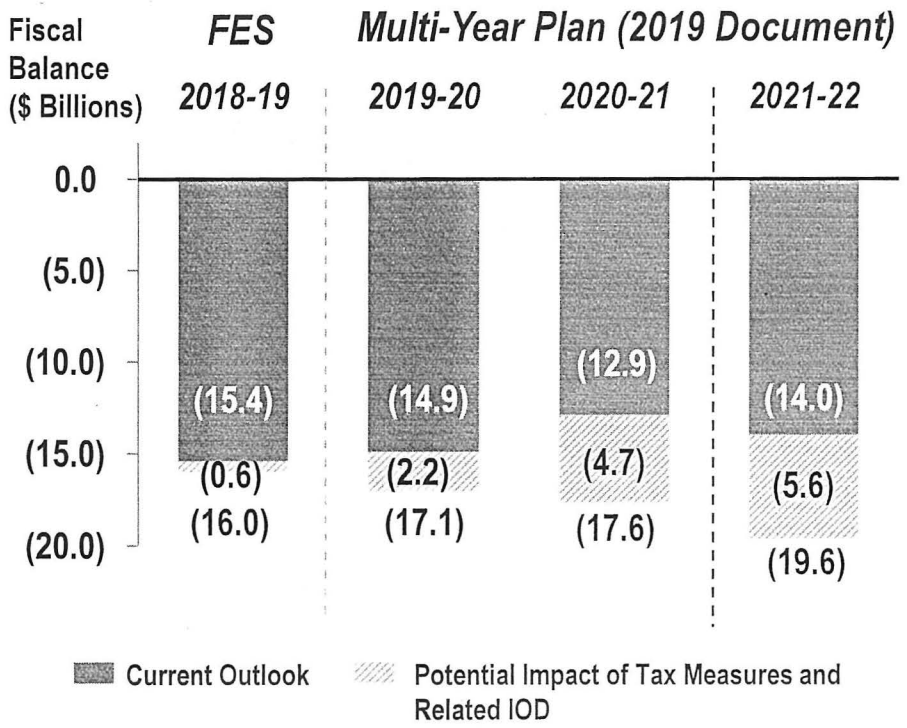


In order to land the 2018 FES outlook and the multi-year plan, a number of choices exist which include impacts that deteriorate the outlook (e.g. the timing and roll out of any potential tax cuts) and those that improve the outlook (e.g., efficiencies measures from LBL review). The illustrative scenarios presented on the represent a range of potential fiscal outlooks based on a range of choices.

FES and Multi-Year Planning Outlook

There are a number of potential items, which are subject to decisions on design and timing of implementation, that could impact the Current Outlook, these include:

- Potential tax cuts or changes
- New investments being considered through the FES process



($ Billions)	2018-19	2019-20	2020-21	2021-22
Potential Tax Cuts - Design and Implementation Details TBC				
Minimum Wage Tax Credit (ON Employment Tax Reduction) (effective for 2019 tax year)	(0.1)	(0.6)	(0.6)	(0.6)
20 per cent cut to second PIT tax bracket (likely to start in 2020-21)	—	—	(2.6)	(2.6)
Gas Tax Decrease (starting April 1, 2021)	—	—	—	(1.3)
Aviation fuel tax decrease for the north (as early as April 1, 2019)	—	(0.0)	(0.0)	(0.0)
Impact of Federal Capital Cost Allowance	(0.4)	(1.1)	(1.0)	(0.3)
Total Potential Tax Cuts	**(0.5)**	**(1.7)**	**(4.1)**	**(4.7)**
Potential Tax Credits* - Design and Implementation Details TBC				
Refundable Tax Credit for Childcare Costs	0.1	0.4	0.4	0.4
Total Potential Tax Credits*	**0.1**	**0.4**	**0.4**	**0.4**
Other New Initiatives - Design and Implementation Details TBC				
12% Electricity Rate Reduction	—	TBD	TBD	TBD
Total Other New Initiatives	**TBD**	**TBD**	**TBD**	**TBD**
Interest on Debt Impact	**—**	**0.1**	**0.2**	**0.5**
Total Fiscal Impact of Potential New Measures and IOD	**(0.6)**	**(2.2)**	**(4.7)**	**(5.6)**

*Tax credits and IOD increase the expense outlook
Note numbers may not add due to rounding

Principles to Guide the Fiscal Planning Process

The fall fiscal planning process provides an opportunity to establish principles that can help guide fiscal policy decisions moving forward. Principles should be shaped and informed by the findings of the Commission and Line-by-Line Review, in an effort to respond to key recommendations in both reports.

Fiscal Targets

- Build in room for improvement to the 18-19 deficit trajectory in the lead up to Budget
- Through the outcomes of the multi-year planning process, clearly communicate and provide transparency around policy implications of achieving fiscal targets over the outlook and the recovery plan, including the time frame for balance

Net Debt

- Ensure Ontario's Net Debt-to-GDP is on a declining and fiscally sustainable track

Revenue

- Ground revenue forecast in the economic outlook for Ontario and globally, as well as government policy direction

Expense

- Prioritize spending on investments that support the government's priorities while maintaining an efficient/effective use of resources that generate outcomes

Prudence

- Build enough prudence in the plan to allow for unforeseen developments, known impacts and risk profile taken on in the plan

Fiscal Tools

- In addition to expenditure management initiatives already undertaken and those still to be considered which could result in additional savings, a number of tools exist that can support the achievement of fiscal targets and help close the fiscal gap on the way to a balanced plan:

  - Outcomes from the Line-by-Line review
  - Accounting adjustments including review of pension accounting for future years, once an agreement by the Auditor General is secured
  - Adjusting prudence levels, including resetting contingency fund levels and resetting the reserve
  - Adjusting the scope, scale and timing of tax changes under consideration

- Consistent with the Commission's recommendations, the government will need to ensure that any tools such as savings targets or other measures adopted are linked to specific plans for delivery and implementation.

Key Decisions and Next Steps

Fall Statement

- Confirm focus of FES details on 2018-19 only; and what should be fiscal target for 2018-19?
- Incorporate outstanding information, such as updated interest on debt and the impact of federal measures.
- Confirm specific measures (tax and other) to be incorporated and announced in FES with 2018-19 implications. What other measures to build into the 2018-19 target that may not be announced until after FES, e.g. 2019 Document?
- How much additional savings are required to meet the 2018-19 FES target and how to specifically allocate/minute these across ministries in 2018-19 to ensure achievement of the fiscal target?
- What should be the right level of prudence to incorporate?
- How much detail to provide about a path to return to balance in FES?

Multi-Year Planning

- What could be a responsible timeframe within which to target a return to balance?
- How much overall savings should be targeted to achieve balance? What is a reasonable growth rate in spending to target?
- Which specific Line-by-Line hypotheses to build into allocations?
- What additional efficiency targets across ministries should be included?
- How should future budget initiatives (tax cuts, investments) be assumed? What are the trade-offs, if any, in terms of new initiatives vs. reducing the savings required to meet fiscal targets?

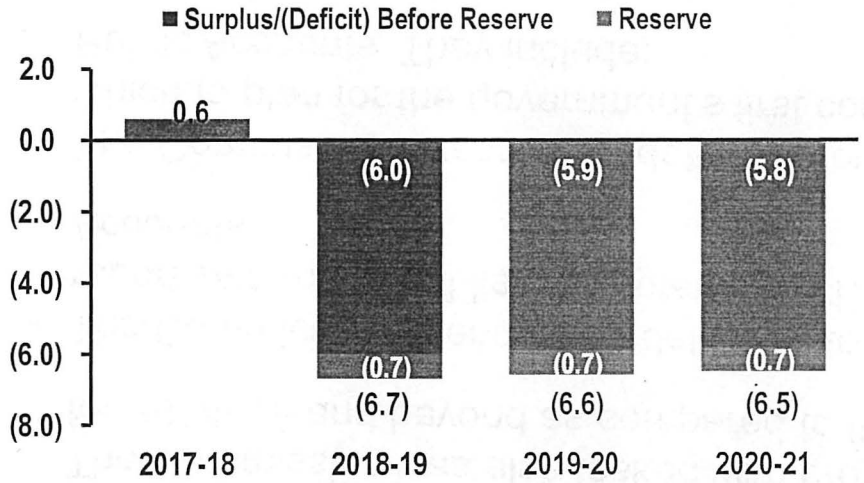
APPENDIX

Recapping the *2018 Budget / Pre-Election Report* Fiscal Architecture

- The *2018 Budget* and Pre-Election Report projected deficits over the next three fiscal years.
- The *2018 Budget* also included a plan that projected balance by 2024-25.

2018 Budget / Pre-Election Report Fiscal Targets

Fiscal Balance
($ Billions)



	2017-18	2018-19	2019-20	2020-21
Net Debt-to-GDP (%)	37.1	37.6	38.2	38.6

Average Annual Growth Rates 2018-19 to 2020-21

Revenue: 3.7%
Program Expense: 3.3%.

Overview of Medium-Term Outlook

- Forecast for **rising revenues** driven by private sector forecasts for **modest sustained economic growth**.
  - Significant economic and revenue **risks**, including those related to trade with the United States, rising interest rates and slowing household spending.
  - The *2018 Budget* outlook included revenue measures such as changing the Personal Income Tax brackets and surtax.
- **Program spending was projected to increase significantly** in each year over the medium-term primarily **due to a number of new initiatives**, as well as demand pressures from existing programs.
  - New initiatives over the medium-term outlook totaled $13.3 billion, including $2.1 billion in 2018-19, $4.2 billion in 2019-20 and $7.0 billion in 2020-21 (note: excludes increases made to existing base spending to keep pace with cost drivers, technical updates, etc.).
- The Auditor General's recommended accounting adjustments for electricity refinancing and two public sector pension plans were not reflected in the *2018 Budget* and Pre-Election Report outlook (potential fiscal impact of $5.0 billion in 2018-19).

Commission's Findings

- On July 17, 2018, the government established an Independent Financial Commission of Inquiry to review Ontario's past spending and accounting practices.
- The Commission was also tasked with providing advice on the Province's budgetary position for 2018–19 and beyond as compared to the position presented in the *2018 Budget*.
- The Commission's report was delivered to the Minister of Finance on August 30, 2018. The report was made public on September 21, 2018, along with the release of the 2017-18 Public Accounts.
- The Commission's recommendations inform the baseline fiscal outlook for 2018-19, from which to plan for the government's first comprehensive fiscal update, as well as the 2017-18 Public Accounts. They include:
  - Adopting the Auditor General's proposed accounting treatment for Global Adjustment Refinancing
  - Adopting the Auditor General's proposed accounting treatment for any net pension assets for the Ontario Teacher's Pension Plan and the Ontario Public Service Employees Union Pension Plan on a provisional basis, until an agreement is reached between the government and the Auditor General.
  - Adjusting revenue and expense projections based on the latest available information, and restoring the reserve to at least the historical level of $1 billion.
  - Establishing a fiscal plan that includes near and medium-term deficit targets and clearly describes how the government will achieve and report on these targets.
  - Conducting analysis to determine and set an appropriate target and timeline to reduce the Province's ratio of net debt-to-GDP.

Commission's Findings Continued

- The Commission recommended that the government undertake a review of the *Fiscal Transparency and Accountability Act*, 2004 (FTAA) to improve its effectiveness in guiding government fiscal planning and reporting
    - For example, the Commission suggests that increasing transparency around policy implications of achieving balanced budgets could help Ontarians understand the transformational changes, service reductions, or new revenue-raising capacity that might be necessary to achieve balance, and therefore make the requirement for a recovery plan in FTAA more meaningful.
- Set a long-term goal of restoring the Province's AAA credit rating
- Expand Ontario's Long-Term Report on the Economy to include additional analysis on fiscal sustainability and set out the fiscal implications of current trends and future risks.

Impact of Commission's Findings for 2018-19

Revenue	Impact $B
Slower economic growth *Average Private Sector forecast for Ontario GDP growth lower than at the time of the 2018 Budget*	(0.4)
Lower housing market resales *Over the first half of 2018, both the quantity and prices of home resales were notably lower than previously anticipated.*	(0.4)
Minimum wage increase *Distributional impact of the increase in minimum wage in income tax revenue projections.*	(0.1)
Corporate income shifting *Risk of businesses shifting of income out of Ontario due to lower U.S. corporate income tax rates*	(0.8)
2017 Income Tax Assessments *Net increase in income tax revenue based on preliminary information on 2017 tax assessments*	0.2
Total Revenue adjustments	(1.5)

Expense	Impact $B
Reversed savings targets *Year–end savings target and program review savings target removed because as of the end of the first quarter of 2018-19, the government had not yet identified specific measures to meet the year-end savings and program review savings targets built into the 2018 Budget.*	1.4
Accounting Adjustments *Fiscal impact of Auditor General's recommended accounting treatment: $2.4B for global adjustment refinancing and $2.7B for two public sector pension plans*	5.0
Total Expense adjustments	**6.4**
Reserve Adjustment *The Reserve was set at a historically low level of $0.7 billion in the 2018 Budget. This adjusts the reserve to be more consistent with historical levels over the last seven years of $1 billion.*	**0.3**

*Numbers may not add to rounding

Items Tracking – Expense Estimates

($ Billions)	2018-19	2019-20	2020-21	2021-22
Heavy Lifting Remaining – Initiatives on hold – amount of spending to be determined.				
Correctional Services Transformation: Legislative Compliance	(0.1)			
Additional Supports for Apprentices and Employers	(0.1)			
Autism	(0.1)			
All Other Tracking*	(1.2)			
Total Initiatives on Hold	**(1.5)**			
Decision made. Savings to be determined				
Expenditure management levers				
Freeze non-bargaining management compensation				
BPS executive compensation				
OHIP+ for children and youth – refine program eligibility requirements				
Université de l'Ontario française.				
Total Expense Estimate	**(1.5)**			

*Includes initiatives such as Strategy to address Gender Violence, MT0 Drive Test Centres, Police Oversight Review, Smart Grid Fund and Youth Employment in Small Business

Risks to the Fiscal Plan

- Revenue risks that could impact the outlook are outlined below.

Key Revenue Risks ($ B)	Average Annual Variance	Risk Assessment
Revised Economics	+/-$0.6	+
2017 PIT Assessment Data	+/-$0.5	-
2017 CIT Assessment Data	+/-$1.8	+
HST Entitlement Update	+/-$1.3	+
Monthly Own-Source Tax collection data (including LTT)	+/-0.3	=
OEB Regulatory Decision	N/A	-
OLG and LCBO Net Income	+$0.2	+

- Expense risks that could impact the outlook are outlined below.

Expense Risks ($ B)	2018-19	2019-20	2020-21	2021-22
Ministry Risks Reported at Q1	0.6	TBD	TBD	TBD
Cap and Trade Expense Decisions	TBD	TBD	TBD	TBD
Expenditure Management Items Still Tracking to TB/MBC	TBD	TBD	TBD	TBD
Compensation Risks	TBD	TBD	TBD	TBD
Consolidations Adjustments	TBD	TBD	TBD	TBD
Total Expense Risks	**TBD**	**TBD**	**TBD**	**TBD**

Potential Fiscal Impact of Cap and Trade Wind-Down

- A **preliminary estimate** of the potential fiscal impact of winding down the cap and trade program **ranges from $0.6 billion to $0.8 billion** per fiscal year.
  - The loss of revenue is greater than the expense savings as some of the planned expenditures were to be amortized. Expense items remaining in-plan primarily include the electrification of the Regional Express Rail.
  - Ministries have also been directed to report back to Treasury Board/Management Board of Cabinet by October with a status update on wind-down costs.

Potential Fiscal Impact of Cap and Trade Wind-Down

	2018 Budget / Pre-Election Report (A)			*Change/ Fiscal Impact** (B) – (A)			Resulting Cap and Trade Fiscal Assumptions (B)		
$ Millions	**2018-19**	**2019-20**	**2020-21**	***2018-19***	***2019-20***	***2020-21***	**2018-19**	**2019-20**	**2020-21**
Revenue	1,979	1,923	1,749	*(1,507)*	*(1,923)*	*(1,749)*	472	–	–
Expense	1,226	1,301	1,105	*(693)*	*(1,301)*	*(1,105)*	534	–	–
Balance – Fiscal Benefit/(Deterioration)	752	622	644	*(814)*	*(622)*	*(644)*	(62)	–	–

* Assumes no fiscal impact associated with capital asset investments.

F.H.P. (1)

April 21, 2017

- ~~Guarantee~~
- Legislative certainty

- Canada Guarantee - Nalcor

- Warehouse facilities
  - short term debt to
- Long Island Power Authority

---

call w/ Anna Stathopoulos, Ron K., Mark K.

- Gadi
  - 2 guarantees
    1 - based on any change in legislation

Gadi, Helen (TB) also didn't like MOE signing guarantee.

2 - Performance guarantee

- Here, want to enable deal in legislation, not put whole deal in legislature

SPV
Trust
- OPG is beneficiary
- equity

Trustee - not sure
Sub of OPG being financial services manager

$ ⇒ manager
→ interest income
→ distributions related to derivatives

Scott Nelms, Ken Ryfa, Rob Lewis
Jerald Wortsman

- Income normally not expected as "real return"

June 7, 2017

Call re: Indemnity w/ DFA
Bruno, John, Susan, Mark.

Appendix B - contingent liabilities

- Statutory indemnities - any act done in good faith
- table -

In Longacres case
- IRSO involved in financing, so they are concerned about financing.

June 7, 2017

FHP - Guarantee agreement
mtg. - OFA - Finance Legal Tom
Moorley, Stephen Ashbourne

OPG wants to have structure of guarantee in place in order to have conversation w/ rating agencies in July.

- ~~Bridgeabi~~ enabling legislation pretty open.
- ~~Landscape allows~~
- S.A. thinks optimistic to have this be an easy, standard AAA product.
  - 3/4 of this is easy to draft for market, but rest is a challenge, and regulations still need to be drafted.
  - There is not an existing product like this in Canada
  - Problem w/ liquidity -
    - $200 - $300 million a month, which is small. (or for issue - may not be every month)

Maturity mismatch issue, b/c need to refinance for a while before being paid back.
- If need to refinance with the same few players, they

have all the leverage.
- Need other outs.
- would also need to consider private placements w/ pension funds.

- Market disruption guarantee means ~~this~~ may have purchases for those purposes.

S.A. - performance Guarantee of IESO, but not directly of LDCs.
- Advising that we test the market a bit more,

- Swb notes held by OPG
  - Some conflict ~~in~~ in their role

- What we should show them right now is a performance guarantee.
  IESO has to be able to do the same w/ LDCs.

- True up an important feature
  - This is part OF the structure.

Payment guarantee
- on change in Legs/reg

- specific payment guarantee w/ narrow effect

- should make sure it is

When OPG goes to rating agency, they need to have a good idea of the baseline.

Performance guarantee
- have to apply to asset, not directly to securities.

Book value appreciation should increase similarly to what could have been interest or equivalent.

- details need to be subordinate to hold level concepts

3 project issue
- Performance guarantee
- Can say PS now

(2) - For AAA market securities, govt will step in on change in law.

(3) - Market disruption
- Don't want to do that now.

Whitfield, Tobias P. (MOF)

From: LEE John -TREASURY <john.s.lee@opg.com>
Sent: November 29, 2017 6:46 PM
To: Ramchandani, Rima; Mansoori, Nina
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; LAURETA LAPIRA May -TREASURY; LADAK Lubna -TREASURY
Subject: DBRS- Fair Hydro Program: Change of Law Protection Agreement

See comments from DBRS

From: Tim O'Neil [mailto:toneil@dbrs.com]
Sent: Wednesday, November 29, 2017 6:42 PM
To: Taylor, Brent R ; Jamie Feehely ; King Lam ; Andrew Lin ; Tom Li ; Arthi Sambasivan
Cc: Benaiah, Ian ; Khan, Nur ; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com) ; andrew.maciel@cibc.com; sunil.adalja@cibc.com; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com) ; Delaney, Brian (Brian.Delaney@gs.com) ; RYFA Ken -TREASURY ; LEE John -TREASURY
Subject: EXTERNAL – RE: Fair Hydro Program: Change of Law Protection Agreement

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DBRS questions/comments on the draft of the CLPA received Nov 22 below:

- Will there be a legal opinion addressing the binding nature and enforceability of the Protection Agreement on its terms? — Yes - Blakes
- Section 1.15: DBRS expects any material amendment or material waiver to the agreement to be subject to a RAC and prompt notice of any other amendments/waivers/consents. Notice & Consent
- Section 2.01: Please provide DBRS prompt written notice of a Protection Event.
    - Section 2.01 (a): "Payment Date" is not defined in this Agreement. Is the reference to the Guarantee Payment Date?
    - Section 2.01 (a)(iv)(ii): Subrogated Amounts: this calculation is confusing and seems to missing the next prong "y". Is the subrogated amount the amount that has been actually paid to the Beneficiary by the Province in relation to the amounts payable from amounts available? Being discussed
    - To the extent the amounts paid by the Province into the Protection Account exceed the amounts payable to Beneficiary from amounts available – is that excess the subrogation amount or is that excess just returned to the Province?
- **As a general comment**: With respect to subrogation amounts owing to the Province - the Province seems to maintain a subrogated claim against the Financing Entity that has the same ranking as the Beneficiary obligation that has been paid by the Province and that subrogated claim is to be paid on the same date the amounts on deposit in the Protection Account are paid to the Beneficiary (i.e. the Province's subrogated claim becomes a ~~Specified Creditor~~ under the Trust Indenture and potentially ranks in priority or pari passu to all other securityholders claims depending on applicable Beneficiary's obligation's respective ranking within the trust indenture waterfall). How will this subrogated claim be satisfied – from what resources? Why has the right of subrogation of the guarantor (the Province) not been postponed until after all the rated obligations have been paid in full? B/C Province will pay over funds not in advance
- Section 4.02: Adherence Obligations:
    - With respect to Funding Obligations under a certain amount that do not need to meet the Adherence Conditions, what would those Funding Obligations consist of? Are these limited amounts still treated as Primary Obligations pursuant to which the guarantee obligation applies? yes any applicable agreements

- Section 4.03: Is 4.02(b)(x) a typo? There is no "x" in 4.02(b)?
- Section 5.01 (a): As per the question above on section 2.01(a)(iv)(ii), please clarify how the Subrogation Amount is calculated (if not based on the actual amount paid by the Province in respect of amounts payable). To be discuss
- Section 6.01: Why is it at the Province's election to provide the Indenture Trustee notice of the Province's election to assume the Financing Entity's Obligations Secured? Under what circumstances would the Province decide not to provide the Indenture Trustee notice of its election to assume? In any event, DBRS expects to receive prompt written notice of an election to assume and copy of any such Assumption Notice. NA
- Section 6.04: How long can the Interim Period be in effect during the implementation and completion of the assumption terms? Are the securityholders and Indenture Trustee stayed from accelerating and enforcing if there is an Event of Default under the rated notes during the Interim Period? Are there any other restrictions on the SPV Financing Entity and/or the securityholders during the Interim Period? NA
- Section 8.01: Under this section the Province may declare at any time for any reason that the guarantee shall not apply to any Obligation Secured incurred on after the date of such declaration (other than the refinancing of a previously incurred funding obligation) by delivering a "Suspension Notice" to the Indenture Trustee/OPG/SPV.
    - Please provide DBRS with prompt written notice of any such Suspension Notice. OK
    - Please confirm how the Suspension Notice would apply with respect to refinancing, increases or issuances up the program limits under the Warehouse Supplement. For example if a suspension notice is issued does the suspension apply to any issuance of notes for the purposes of refinancing outstanding ABCP? Or does this type of refinancing fall within the carve-out from a suspension notice, "Refinancing of a Primary Obligation" noted in this section 8.01?" Further, will issuances after the Suspension Notice but up to the program limit or already permitted increases be subject to a Suspension Notice? Yes Yes
- Section 8.03: Please provide DBRS with prompt written notice of any such Termination Notice. NA
- Section 9.03: Please provide DBRS with prompt written notice of any assignment. OK
- Definitions: Approved Obligation Amount (subsection (b)): Where an acceleration has occurred, how will this calculation address circumstances under which the CEA is no longer able to be charged or collected? Where amounts that would be available to be paid is compromised in some way and acceleration has occurred, could the Approved Obligation Amount be nil? No - maybe to discuss further.

Thank you,

Tim O'Neil
Senior Vice President, CDN ABS
Global Structured Finance

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From: Taylor, Brent R [mailto:brent.r.taylor@rbccm.com]
Sent: Wednesday, November 22, 2017 9:57 AM
To: Tim O'Neil <toneil@dbrs.com>; Jamie Feehely <jfeehely@dbrs.com>; King Lam <KLam@dbrs.com>; Andrew Lin <andrew.lin@dbrs.com>; Tom Li <TLi@dbrs.com>; Arthi Sambasivan <ASambasivan@dbrs.com>
Cc: Benaiah, Ian <ian.benaiah@rbccm.com>; Khan, Nur <nur.khan@rbccm.com>; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com) <Donnie.Persaud@cibc.com>; andrew.maciel@cibc.com; sunil.adalja@cibc.com; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com)

<Katrina.Niehaus@gs.com>; Delaney, Brian (Brian.Delaney@gs.com) <Brian.Delaney@gs.com>; RYFA Ken -TREASURY (ken.ryfa@opg.com) <ken.ryfa@opg.com>; LEE John -TREASURY (john.s.lee@opg.com) <john.s.lee@opg.com>
Subject: Fair Hydro Program: Change of Law Protection Agreement

DBRS Team,

In connection with the Fair Hydro Program please find attached;

- Change of Law Protection Agreement

We hope you will find this document helpful in your analysis.

Brent R Taylor | Analyst, Securitization Finance | **RBC Capital Markets** | 200 Bay Street, 2nd Floor, Toronto, ON M5J 2W7 | T. 416-842-7284 | C. 647-632-6169 | brent.r.taylor@rbccm.com

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From: Taylor, Brent R
Sent: November 19, 17 2:11 PM
To: 'toneil@dbrs.com'; 'jfeehely@dbrs.com'; 'klam@dbrs.com'; 'andrew.lin@dbrs.com'; 'tli@dbrs.com'; 'asambasivan@dbrs.com'
Cc: Benaiah, Ian; Khan, Nur; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com); 'andrew.maciel@cibc.com'; 'sunil.adalja@cibc.com'; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com); Delaney, Brian (Brian.Delaney@gs.com); RYFA Ken -TREASURY (ken.ryfa@opg.com); LEE John -TREASURY (john.s.lee@opg.com)
Subject: Fair Hydro Preliminary Draft Offering Memorandum

DBRS Team,

We have attached a preliminary draft of the Offering Memorandum. Typically we would not share the current form of the OM at this early stage, but we think it may help to advance your process by offering a high-level summary of the market, roles of the various participants and structure. It is worth noting that the OM is not synchronized with the most recent versions of the underlying documents.

As always, please let us know if you have any questions.

<< File: _Fair Hydro Trust - Preliminary Confidential Offering Memorandum.docx >>
Brent R Taylor | Analyst, Securitization Finance | **RBC Capital Markets** | 200 Bay Street, 2nd Floor, Toronto, ON M5J 2W7 | T. 416-842-7284 | C. 647-632-6169 | brent.r.taylor@rbccm.com

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From: Taylor, Brent R
Sent: November 16, 17 9:45 AM
To: 'toneil@dbrs.com'; 'jfeehely@dbrs.com'; 'klam@dbrs.com'; 'andrew.lin@dbrs.com'; 'tli@dbrs.com'; 'asambasivan@dbrs.com'
Cc: Benaiah, Ian; Khan, Nur; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com); 'andrew.maciel@cibc.com'; 'sunil.adalja@cibc.com'; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com); Delaney, Brian (Brian.Delaney@gs.com); RYFA Ken -TREASURY (ken.ryfa@opg.com); LEE John -TREASURY (john.s.lee@opg.com)
Subject: RE: Fair Hydro Draft Agreements

DBRS Team,

In connection with the Fair Hydro Program please find attached;

- Senior Term Supplement - Nov 15
- Senior Warehouse Supplement - Nov 15

We hope you will find these documents helpful in your analysis.

<< File: Senior Warehouse Supplement - Nov 15.DOCX >> << File: Senior Term Supplement - Nov 15.DOC >>
Brent R Taylor | Analyst, Securitization Finance | **RBC Capital Markets** | 200 Bay Street, 2nd Floor, Toronto, ON M5J 2W7 | T. 416-842-7284 | C. 647-632-6169 | brent.r.taylor@rbccm.com

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From: Taylor, Brent R
Sent: November 7, 17 3:12 PM
To: 'toneil@dbrs.com'; 'jfeehely@dbrs.com'; 'klam@dbrs.com'; 'andrew.lin@dbrs.com'; 'tli@dbrs.com'; 'asambasivan@dbrs.com'
Cc: Benaiah, Ian; Khan, Nur; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com); 'andrew.maciel@cibc.com'; 'sunil.adalja@cibc.com'; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com); Delaney, Brian (Brian.Delaney@gs.com); RYFA Ken -TREASURY (ken.ryfa@opg.com); LEE John -TREASURY (john.s.lee@opg.com)
Subject: Fair Hydro Draft Agreements

DBRS Team,

In connection with the Fair Hydro Program please find attached;

- Master Trust Indenture (November 7th Rating Agency Draft)
- MTSA (November 7th Rating Agency Draft)
- IESO Security Agreement (November 7th Rating Agency Draft)

We hope you will find these documents helpful in your analysis. We will organize a call tomorrow to discuss next steps.

<< File: MTSA (November 7th Rating Agency Draft).DOCX >> << File: IESO Security Agreement (November 7th Rating Agency Draft).DOCX >> << File: Master Trust Indenture (November 7th Rating Agency Draft).DOCX >>
Regards,

Brent R Taylor | Analyst, Securitization Finance | **RBC Capital Markets** | 200 Bay Street, 2nd Floor, Toronto, ON M5J 2W7 | T. 416-842-7284 | C. 647-632-6169 | brent.r.taylor@rbccm.com

From: Taylor, Brent R
Sent: October 13, 17 6:18 PM
To: 'toneil@dbrs.com'; 'jfeehely@dbrs.com'; 'klam@dbrs.com'; 'andrew.lin@dbrs.com'; 'tli@dbrs.com'; 'asambasivan@dbrs.com'
Cc: Benaiah, Ian; Khan, Nur; Donnie Persaud (Donnie.Persaud@cibc.com) (Donnie.Persaud@cibc.com); andrew.maciel@cibc.com; sunil.adalja@cibc.com; Katrina Niehaus (Katrina.Niehaus@gs.com) (Katrina.Niehaus@gs.com); Delaney, Brian (Brian.Delaney@gs.com); RYFA Ken -TREASURY (ken.ryfa@opg.com); LEE John -TREASURY (john.s.lee@opg.com)
Subject: Fair Hydro Materials

DBRS Team,

Further to our kick-off meeting on October 10th, I have attached a comprehensive presentation which contains information about the Ontario Electricity Market, Transaction Overview, Key Agreements and other information that we hope you will find helpful in your understanding and analysis.

In addition I have attached drafts of the Declaration of Trust and Management Agreement. The Declaration of Trust establishes a trust for the purpose of carrying on the activities of a financing entity as defined in the Ontario Fair Hydro Act, 2017. The Management Agreement delegates to OPG all powers and duties of managing the financing entity.

Please let us know if you would like us to arrange a call to walk you through these materials and provide context. Alternatively as you are going through the materials please reach-out with any questions you have.

<< File: Fair Hydro Plan Financing Program 2017-10-13.pdf >> << File: Fair Hydro - Declaration of Trust (DRAFT).pdf >> << File: Fair Hydro - Management Agreement (DRAFT).pdf >>
Regards,

Brent R Taylor | Analyst, Securitization Finance | **RBC Capital Markets** | 200 Bay Street, 2nd Floor, Toronto, ON M5J 2W7 | T. 416-842-7284 | C. 647-632-6169 | brent.r.taylor@rbccm.com

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Whitfield, Tobias P. (MOF)

From: LEE John -TREASURY <john.s.lee@opg.com>
Sent: November 27, 2017 8:32 PM
To: Ramchandani, Rima; Mansoori, Nina
Cc: RYFA Ken -TREASURY; LADAK Lubna -TREASURY; WONG Leslie -LAWDIV; Feldman, Michael
Subject: RA Feedback

FYI
Note comments from Rating Agencies

From: Benaiah, Ian [mailto:ian.benaiah@rbccm.com]
Sent: Monday, November 27, 2017 6:31 PM
To: LEE John -TREASURY ; RYFA Ken -TREASURY ; LADAK Lubna -TREASURY
Cc: Donnie Persaud (Donnie.Persaud@cibc.com) ; Adalja, Sunil (Sunil.Adalja@cibc.com) ; Maciel, Andrew (Andrew.Maciel@cibc.com) ; Katrina Niehaus (Katrina.Niehaus@gs.com) ; Brian Delaney (brian.delaney@gs.com) ; Taylor, Brent R
Subject: EXTERNAL – RA Feedback

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John – I spoke with Moody's and DBRS on the Change of Law Protection Agreement ("CPLA"). Here is an update from each rating agency:

Moody's provided the following three comments:

- Section 2.01(a) – "Upon the occurrence of a Protection Event, the Indenture Trustee **may** deliver a written demand to the Province requiring the Province to make payments in respect of the Approved Obligations". Moody's is looking for something that is more iron clad and expected to see "shall" instead of "may". Blake, to provide alternative wording to avoid technical event trip - use RAC.
- Schedule A Defined Terms – "Protection Event":
- at the bottom of paragraph (a) it indicates that the occurrence of any of the events in (i) through (v) are subject to materiality. Moody's view is that if there are any adverse effects it should constitute a Protection Event, and that the materiality threshold should be deleted. The CPLA is a critical piece in their evaluation, and there should be no ambiguity, uncertainty or dispute in determining whether a Protection Event has occurred. Given the large scale of the program, it may be difficult to prove that smaller payment obligations are material, even though it may affect their ability to rate the timely payment of interest, or ultimate payment of principal.

- The test for an adverse effect is that it impairs the ability of the issuer to pay "Obligations Secured". Moody's would like for it to read "Obligations Secured in accordance with their original terms". Since the Moody's rating at the time of issuance addresses the timely payment of scheduled interest and repayment of principal on the stated maturity date, they are concerned there could be a change of law that extends the collection period that would still allow for payment of secured debts, but on an elongated timeline. That ability is an issue in their rating of the notes.

DBRS

- I spoke with DBRS this afternoon, and they have prioritized the CPLA, and expect to provide comments by the end of the day tomorrow.

As for the modelling, Moody's has no further stress cases that it needs evaluated (for now). DBRS mentioned they have asked CIBC to run several different sensitivities and they are awaiting feedback.

Ian

Ian Benaiah | Director, Securitization Finance | RBC Capital Markets | TEL: 416.842.3820 | FAX: 416.842.3888 | ian.benaiah@rbccm.com

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Defeasance usually used to give issuer a break on covenant – usually used a corporate

Procedure – usually need to match the bonds

If the Province is already issuing bonds – issue to trust, bonds become the collateral, trust is hollowed out – covenants hollow out.

Consequence of defeasance, trust would continue to exist, all trustee stuff, expenses etc... fall away.

Existing debt continues, don't have an exchange for tax purposes, just have an exchange of collateral.

Deposit the bonds, and that is performance of Guarantee obligation, subrogated to the rights of the trust with respect to the bonds.

Commentary from OFA – contrasting the limited guarantee with this scenario.

An assumption

The point is that –

The only costs left are:

1 - Indenture trustee cost

2 - Issuer trustee cost

3 - Paying agent

CONFIDENTIAL AND PRIVILEGED LEGAL ADVICE – Nov 30, 2017

Review of Blakes' mark-up dated November 28, 2017 as proposed response to OPG/Dealers/Torys/Oslers' Comments Daft November 24, 2017 [as updated by their further comments dated November 29, 2017 – not included yet.]

Process Agreement

1. Proposed Response: Agree with response to Footnote #1 – Closing mechanics are under consideration by Province.

2. P. 1 Recitals - OPG moved the provisions requiring delivery of the Initial Financing Plan, Initial Forecast and Initial Protection Agreement Maximum into the recitals as they suggest that these actions will have taken place prior the Ministers executing the Process Agreement and Protection Agreement. They would like to add a list of the "reference" agreements, the Initial Financing Plan and Initial Forecast as exhibits to the Process Agreement. This doesn't work for a number of reasons including:
   - The authority for provincial staff to "not object to" and "confirm" these documents flows from the Ministers' power to determine the terms and conditions of the limited guarantee.
   - The agreements and financing plan will not necessarily be in final form at the time that OPG is hoping that the Ministers sign the Process Agreement and Protection Agreement so it is not possible to attach the final form.
   - This reduces flexibility for the Province in reviewing these documents and revises the approach that has already been agreed to through negotiation to date on numerous iterations of the Process Agreement.
   - The recitals are inaccurate as the Province doesn't have a role to "not object to the financing plan" so it seems like OPG is trying to obtain some agreement on a point outside the parameters of the Process Agreement. Financing Plan is delivered to the Minister of Energy under the statute.
   - The Province's role as set out in s. 4.01(b) of the Process Agreement concerns how the Protection Agreement Maximum can be established: "the Province may disagree with the Initial Forecast and the initial Protection Agreement Maximum on the basis that (i) there appears to be inaccuracies in the Financing Plan or the Initial Forecast, (ii) the Initial Forecast is inconsistent with the Financing Plan or (iii) the initial Protection Agreement Maximum is not less than the Initial Forecast. If the Province disagrees, OPG shall discuss any discrepancies with the province, address any inaccuracies and inconsistencies so the reasonable satisfaction of the province and OPG and the initial Protection Agreement Maximum will be revised accordingly and confirmed by an amended notice to the Province."

   Proposed Response: Agree with Blakes' mark-up to revert to previous provisions on all these points.

3. P. 1, Recital 5 – Need to consider whether the delivery of the initial "Reference (formerly "Reviewed") Documents" should be moved into the body of the Process Agreement as an obligation for OPG and Province has right to object within 10 Business Days or such shorter period. OPG suggests adding a schedule that lists these documents but as noted above these Reference Documents are not likely to be in final form prior to Ministers executing agreements. How can these particular documents be identified as being the "Reference Documents" for the purposes of the agreement? Will they be sent under a particular covering letter or dated a particular date or version?

4. Concept of "not objecting to" vs "confirming or accepting". Understand that the preference is for the Province to "not object' rather than "confirm/accept". The original approach was for the Province to positively confirm in writing acceptance or approval but this was revised a few drafts ago. The reason for the revision was based to a certain degree on the limited time that the Province has to review any of the Reference Agreements and as a result the defined term was changed as well. So now certain documents (Reference (Reviewed) Agreements and the delivery of the Initial Forecast and subsequent Forecasts and Protection Agreement Maximum) are delivered to the Province and will be accepted unless the Province objects or disagrees with them. Right now there is a 10 day period for disagreeing in writing with forecast and Protection Agreement Maximum and then discussion and OPG to address discrepancies to reasonable satisfaction of Province and re-send Initial Forecast amount. Also the Province may "object" to any amendments of the "Reference Documents" by "delivery of an objection notice in writing delivered to OPG within 10 Business Days after it is provided to the Province" but no steps as to what happens when Province objects. Would it be informal discussion?
   Province to decide: Also, it is important now from a practical perspective to determine to whom at the Province the following documents are sent under the Process Agreement and who will determine whether or not to object/disagree on behalf of the Province:
   - Deliver initial Financing Plan (s. 2.01(a))
   - Deliver Reference Documents (as mentioned in recital or if moved to obligation under agreement)
   - Deliver Initial Forecast and initial Protection Agreement Maximum (s. 4.01(a))

5. 2.02(a)(v) – Addition of "unless waived in writing by the Province:
   Proposed Response: OK because any provision can be waived in writing by a party anyway.

6. 2.02(a)(v)(D) – This provision would not allow Financing Entity to enter into transactions where there is penalty or make-whole payment or consent right required for Province to assume the obligations?

Proposed Response: Need to discuss whether this is still relevant to be preserved if no assumption right?

7. 2.02(b)(iv) – OPG says they will not be aware of any event that with the passage of time or the giving of notice would be a Protection Event.– we propose adding "known to OPG" so that if they do know something they should not go ahead and exercise redemption etc. rights.
Proposed Response: Agree with Blakes mark-up to insert "known to OPG".

8. 2.02(c) – OPG inserted that its obligations under the Process Agreement are subject to OPG's obligation as FSM and as Manager. At the Tuesday evening meeting, we had asked them to narrow this wording so that it identified any points at which their fiduciary or other obligations under those agreements might conflict with the obligations under the Process Agreement, but they haven't narrowed it so the effect is that they could rely on this to say that in any particular case there is a conflict with their other role so they can't comply with their obligation to the Province
Proposed Response: Agree with Blakes mark-up not to accept this addition.

9. 2.02(c) – OPG wants to reference that nothing in the Protection Agreement limits the obligations of the Province under the Indemnity Agreement to indemnify OPG. OPG in its own capacity is not a party to the Protection Agreement. Don't understand why this needs to be added and how anything in the Protection Agreement would affect the Indemnity Agreement. [Need further explanation of disadvantage to Province.]
Proposed Response: Agree with Blakes mark-up not to accept this addition.

10. 3.01 Process Certificate: OPG has significantly reduced the amount of information and its responsibilities under the Process Agreement and is proposing to only provide the Province with a certificate under s. 3.01 in the same circumstances that OPG is giving one to the dealers under the Protection Agreement. The Province agreed to limit delivery of OPG's certificate under the Protection Agreement because dealers' counsel refused to agree to provision of a certificate in the case where funding obligations were amended (and the Province agreed to a compromise position where notice of amendments is given to the province under the trustee indenture amendment provisions). OPG has now deleted delivery of that certificate to the Province under the Process Agreement too, which was never discussed or agreed to by the Province. In addition, it has narrowed the obligations for which a certificate is provided under the Process Agreement to the narrower category of Certified Primary Obligations – borrowing, master ISDA agreement and other agreements for with a term of 3 years or longer (without termination within 3 years and above a $5 million thresholds, etc. The Province agreed to a narrower circumstance in the Protection Agreement on the insistence of dealers counsel that there was too much uncertainty associated with when the guarantee applied and so these categories were

delineated. Again, there was no discussion about so restricting the delivery of certificates under the Process Agreement. The principle is quite different and the Process Agreement is between the Province and OPG to ensure that Province receives sufficient information about obligations to which the Province's guarantee will apply.
Proposed Response: Revert to previous version of Process Agreement so that Province receives broader information and certificates. Consider specifically the following:

- Certificate should be provided before amendment to guaranteed obligations as previously agreed.
- Footnote 2 on p. 7 - When should certificate be provided? Previously said before earlier of pricing and incurrence of obligation. Have now agreed before "incurrence" In Protection Agreement – do we still want it before earlier of pricing and incurrence of obligation?

- What is the scope of obligations for which certificate must be provided? Previously said Funding Obligations above a $ threshold. $ threshold has not yet been included. The way it is drafted it would apply a $ threshold to all types of obligations. Also, in Protection Agreement, have narrowed it to Certified Primary Obligations as set out above. Would say that this is too narrow for swaps - definitely want it for swap confirms in process agreement as ISDA Master is not informative of any transactions guaranteed. Need to consider this further – what about other obligations? Note that these certificates are informational – they don't determine whether the Limited Guarantee applies. [$5 million]

11. 3.02 Acknowledgement – OPG added a provision in which Province acknowledges that OPG will provide a certificate to Indenture Trustee and that if there is a Suspension Notice, OPG agrees not to deliver any further certificates. In general, this provision seems ok, but OPG deleted the Suspension Notice Delivery provision which should be re-inserted with the specific range of suspension events.
Proposed Response: Agree with Blakes mark-up to include Acknowledgement but also include a specific acknowledgement about Province's entitlement to deliver a Suspension Notice under the Protection Agreement if there is a Program Breach or Breach Event under Process Agreement and also inclusion in 6.01 of the definition of Breach Event.

12. 6.01 Election to Assume – Deleted.

<u>Protection Agreement</u>

1. Footnote 1 – Agree that logistics of closing are under consideration by Province

2. Footnotes 2 and 3 – Legal note to Torys' that Province will accept Torys opinion on due execution point and establishment of trust as financing entity point.

3. Recital 2 – Insert OIC number 1981/2017 made September 27, 2017

4. P. 2 – Proposed Response: accept deletion of "or amended" because no adherence conditions required on amendments. (compromise position that Province will get notice under Trust indenture).

5. 1.12 – Question from LSB only – Are we going to request original executed copies of these agreements by all parties? Typically we ask for originals. Perhaps we can discuss further?

6. 2.01(a) – Proposed Response: Agree to deletion of form of "Guarantee Settlement Statement" in advance given timing.

7. 2.01(a)(iv)(B) – Proposed Response: Agree to revised wording. The change is to reflect the Province's subrogation rights. After a Protection Event the Province pays the whole amount owed to the Beneficiary, and not just the deficiency. The Province then receives any payments that it has a right to receive by being subrogated to the rights of the Beneficiary after making payment on the Limited Guarantee. [NTD: Blakes is undertaking further review on this issue and may suggest further changes.]

8. 2.01(b) – Proposed Response: OK, conforming change

9. 2.01(e) – Proposed Response: Fine for completeness.

10. 2.08 – Proposed Response: Fine, 8.01 is the section describing when Limited Guarantee ends – when all obligations are paid.

11. 4.01 – Addition of ability for Province in its sole discretion designate in writing that it is an Approved Obligation.
Proposed Response; OK, adds flexibility and it is in Province's sole discretion.

12. 4.02 (b) – Changes to delivery by OPG of Certificate to **[Indenture Trustee]**~~**[NTD: Is it sufficiently clear who the Certificate is delivered to?]**~~ to confirm adherence of Guarantee to reflect business issues raised by dealers' counsel re: Protection Agreement. However, OPG has proposed using the same approach for the Process Agreement which is discussed above. We also do not agree to the description of the contents of the Certificate as it must say that OPG has complied with its obligations to the Province and internal requirements and processes in connection with adherence of Limited Guarantee to the Certified Primary Obligation, not that it has delivered all certifications to Province as required.
Proposed Response: Agree with Blakes mark-up.

Additional Issues with respect to Certificates:

a) new narrowed concept of Certified Primary Obligation in Definitions for which a certificate will be required for adherence includes: (i) obligations incurred to fund investment interests or repay such funding, (ii) Master ISDA Agreement (not confirms or trades) and (iii) other contracts that have a term of more than 3 years and not terminable within 3 years and with aggregate amount payable of more than $5million.
b) timing of certificate (before incurrence but not more than 5 days in advance). – before it was the earlier of pricing and closing – but reflects discussion at meeting that it would be provided before closing.

13. 4.02(c) – re-insert reference to "in respect of which the Adherence Conditions had been satisfied" because it has to be clear that it is only a Refinancing of an existing Primary Obligation to which the Limited Guarantee already properly applied that is not affected by a Suspension Notice.

14. Proviso to 4.02 – Agree with wording that adherence conditions only apply to Certified Primary Obligations.

15. 4.03 – Reflects discussion at meeting permitting reliance on OPG certificate (without verifying officer authority) and allows for adherence if it can be demonstrated that OPG did comply with Process Agreement respecting delivering certificates for Certified Primary Obligation. However need to review wording "OPG had delivered to the Province all certifications required by the Province in connection with the adherence of the Limited Guarantee to the Certified Primary Obligation – compare this to the wording in 4.02(b)?

16. 5.01(b) and 5.02 – Conforming – To confirm with Blakes.

17. Delete Article VI – Assumption Option - Given the changes that have been made and the reality that OPG is not building this right into the initial documents means that there is limited prospect for the assumption right to be meaningful. Even if exercised with respect to some obligations, does not remove the structure in the event of a Protection Event because there will still be outstanding obligations that are not capable of being assumed, except where the Province is subject to negotiations with certain creditors who may not allow assumption without compensation.

18. 6.03 – Agree with conforming Indenture Trustee reps to whatever is contained in Master Trust Indenture.

19. 7.01 – **Suspension of Adherence**. OPG has significantly reduced the rights of the Province with respect to the Province's rights to suspend the adherence of the Limited Guarantee to new obligations. This relates to the Process Agreement. In previous versions the Province had a right to suspend based on a breach of the Process Agreement, and this has been carved back to a narrower

right to suspend based on a breach in connection with an incurrence of a Primary Obligation. This needs to be revised to provide a link so that a breach of the Process Agreement can result in a suspension of the Limited Guarantee for new obligations going forward.
Proposed Response: Agree with Blakes' mark-up to insert clear suspension right for Program Breach and other defaults related to internal requirements and processes. [NTD: Review wording because perhaps all of the requirements don't actually concern adherence of the Limited Guarantee – consider this because adherence conditions only apply to Certified Primary Obligations.]

20. 7.01 – Note new wording requiring a certification from FSM prior to incurrence that proceeds will be used for refinancing of a Certified Primary Obligation incurred prior to the Suspension. Need to review and consider whether the Province is comfortable with allowing the FSM to make determinative when the suspension may have been a result of FSM breach. Difficult to predict scenarios under which suspension has occurred, but should consider what issues may arise.

21. 7.02 – Do not accept deletion of "amended" as Limited Guarantee should not apply where obligations are amended after suspension event.

22. [OLD 8.03] – Agree to delete Termination Notice as not necessary.

23. 8.01 – Agree to new wording that Agreement continues until amounts are paid under Limited Guarantee.

24. 8.02 – Notices to Province – to whom at MOF and MOE – Should it be Minister or someone else – most likely to be a payment demand? Any other notices that are likely?

25. Definition of Approved Obligation Amount – Should the regulation be referenced here? The "capping regulation" as opposed to just the Act. Footnote 5: **Needs review by MOE**.

26. Footnote 6: We would suggest that monthly draws under warehouse should be Certified Primary Obligations as they will be large amounts and significant obligations under the Protection Agreement.

27. See discussion above about definition of Certified Primary Obligation, including questions in Footnote 7. - category of over $X million

28. Definition of Executive Officer – Footnote 8 – Looks like Torys has changed it to National Instrument in next draft which appears to be a better definition – more senior officers. – OFA to confirm whether this works.

29. Definition of Lien [used in 2.01(v)] and Loan Agreement [not used] – Do we need to include these? Lien is a generally understood concept, or do we need more specificity?

30. Definition of Master Agreement – Agree we should delete 1992 as it might not always be a 1992?

31. Definition of Primary Obligation – Footnote 9: Torys to confirm that this matches the Trust Indenture. See question in footnote.

32. Footnote 10 – Deletion because not in Trust Indenture, but a question for Torys because this concept may be included in a supplemental indenture.

33. Definition of "Refinancing" - Footnote 11 - This should be linked to the Act and Regulations. The General Regulation allows for a Refinancing to include amounts incurred within 6 months prior to the maturity date of a funding obligation. Need to consider whether this could lead to any problems with amounts that are intended for a refinancing but then are not used to refinance such debt. Suggesting some review with MOE on this point.

34. We should review the forms of notices attached to agreement.

FHP - Nov. 28, 2017 (1)

Blakes, MH., TW, Mike Manning

- Materiality
- They are saying they (Moodys would lower rating a notch
- Our reasoning is to deal w/ opportunistic investors.
- Are there words that soften the blow?
- What are rating standards?



Blakes (S.A., J.U.)
Energy legal (AT, TM)
MOFLSB (MH, JW)

FHP - Lawyers call

(1)

Nov. 27, 2017

Assumption

- clean break is good, but there is no way that we can do this

- leaving assumption option in is a fig leaf in current form. It probably won't work. So either leave in as is, or remove.

- In order to have a clean break, can't have as a case by case.

Option 1 - Deleasance + Termination

2 - Abandon
- either w/ junk or without.

Process

- Path (1) - go to market Dec. 15, Path (2) go to market in January.

Offering memo

- Issues with the way that legislation is described.
- How do we comment on it?

(2)

FHP Lawyers call

Nov. 27, 2012

- S.A. Thinks that too much to do with form deal to get done quickly.

- If we hardcode references to underlying documents, an agreement won't be able to review,

- Mechanics will be an issue

In terms of certificates, we let them be less important in Prot. Ag. for Dealers.
Should remain in process, however with suspension as remedy

---

(1) process

(2) Financing plan owned?

(3) assumption

(4) Default prior to close

(5) Subject to.

FHP Lawyers Call
Nov. 27, 2017

3

6 Process agreement
- breadth of underlying obligations
- Derivatives
- master, or also confirms

7 Agreements

Mechanically
- failure to object
- process agreement
- should the docs be attachments

June 14, 2017

FHP - call w/ Tom McKinley, Harkaniel, Stephen Ashbourne
List of questions / comments Malle

- comments in clean version

- When is OPG going to credit rating agencies.

- Critical path
  - Trust debt rating
  - want end of June

Beneficiaries - before Province extends (perf) Guarantee to every counterparty, we should understand what is happening.

S.A. - OPG is assuming that Province will see scope - right now, a list will not be helpful - we don't know what the structure will look like

- Performance guarantee
  - From consumer, to financing entity
  - but not from financing entity → investor

- Approval right.

Oct. 31, 2017

- Kelly Kandeepan

- John Lee & Mike M.

Gadi was briefed.

E&Y not comfortable w/ procedures document
- control, lack thereof as debt issues.
- Board of OPG will be deciding in Nov. about first issue
Ken. - He says they are OFA fine with Tonys proposal for the most part.

Nov. 15

Rocco S., Peter Miligan, Stephen A., Jay M

- Issue ~~I~~ 1

2.01 (a) - Non acceleration provision
~~[illegible]~~ -
Acceleration for priority purposes in bankruptcy ~~and~~ ahead of subordinated.

Dealers -

2 ~~Worried that if~~
~~They~~ Acceleration
-

3 They don't want to have to deal w/ Guarantee when amending

4 Reps + Warranties
- want some more form Provider

5 Assumption
-
- Repayment

FAP CLPA/ Nov. 14

(2)

- Also, OEB part has softness.
  - Some of it is beyond gov'ts control.

DOUBLE CHECK SET-OFF
provision vs. FAA

Art. 6 - Use an assumption agreement

Nov. 16 (1)

DM Briefing FHP

- Warehouse
  - Term debt every 6 months
  - Only 51% of $ obligations needs to be financed.

Accounting tension

Malle – Amendments – notice, cert.
  - material?
  - Need to understand scope of what is guaranteed.

Dealer's concern – If OPG amends, and we get no notice, we are obligated for things we don't know about.

Our response – Maybe only where material, and requires action by Ind. Trustee.
  - The Dealers don't like it.
    - risk for them

OPG's idea – put Province in as Trust Indenture as notice party.

Election to Assume

DRAFT: ~~JUNE 22~~JULY 18, 2017

OFA legal should review

MASTER SHARE SUBSCRIPTION AGREEMENT

among

MINISTER OF ENERGY

- and –

ONTARIO POWER GENERATION

~~- and -~~

~~**ONTARIO FINANCING AUTHORITY**~~

Not sure it helps to remove OFA as a party

Dated as of ■, 2017

Mechanics of 11.4

- Call

EXHIBITS

~~Exhibit A~~Exhibit A	--	Share Subscription Form	Form
~~Exhibit B~~Exhibit B	--	Subscription Supporting Information	Form
Exhibit C	--	Receipt and Certificate	
Exhibit D	--	Payment/Wire Transfer instructions	
Exhibit E	--	Share Redemption Process	

MASTER SHARE SUBSCRIPTION AGREEMENT

THIS AGREEMENT made as of ■, 2017.

AMONG:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, as represented by the Minister of Energy

(the "**Minister**")

- and -

ONTARIO POWER GENERATION INC., a corporation established under the laws of the Province of Ontario

("OPG")

~~- and -~~

~~**ONTARIO FINANCING AUTHORITY**, a [ ]~~

~~(the "**OFA**")~~

Background

1. The ~~Government~~ Legislature of Ontario enacted the *Ontario Fair Hydro Act, 2017* (the "Act") ~~to implement its Fair Hydro Plan (the "FHP")~~on June 1, 2017. The ~~Act's~~ purpose of the Act is, among other things, to ensure that clean energy costs and clean energy benefits are fairly allocated among present and future ~~specified consumers~~electricity ratepayers.

2. The Act, and the regulations promulgated under the Act (the "Regulations"), creates certain regulatory assets related to deferred electricity charges payable by specified consumers ~~related to the deferral of electricity charges~~ (the "Assets"), which Assets will be acquired from the Independent Electricity System Operator ("IESO") by ~~the~~ a special purpose financing entity to be established by OPG ~~to implement the financing plan to fund the deferral under the Act~~ (the "Fair Hydro Trust") **[NTD: use "Financing Entity"??]**.

~~3. The Fair Hydro Trust will acquire the Assets monthly from IESO and finance them in accordance with the financing plan, which includes both senior debt (minimum of 51%) from external sources and subordinated debt (up to 49%) from OPG.~~

~~4.~~3. The Minister has agreed to make equity injections in OPG in an amount ~~fund~~ up to 44% of the total funding ~~requirement~~ required to support the acquisition of ~~for~~ the Assets by the Fair Hydro Trust ~~through equity injections in OPG~~ and OPG has agreed to use the equity injections solely for the purpose of funding the Fair Hydro Trust's subordinated debt (the "Equity Injection Plan").

~~5.~~4. For purposes of the Equity Injection Plan, OPG [will amend] [has amended] its articles to create a new class of non-voting, redeemable shares (the "Class A Shares"). The Minister will subscribe for Class A Shares monthly in

accordance with the process set forth in this Agreement and OPG will in turn invest these amounts in subordinated debt of the Fair Hydro Trust.

~~6.~~5. OPG will be entitled from time to time to redeem or buy back outstanding Class A Shares in connection with repayment of the Fair Hydro Trust subordinated debt or other purposes as may be approved by the OPG board of directors.

~~7.~~6. The Minister and the OFA have entered into a service level agreement (the "SLA") which provides the OFA with authority to provide cash management services to facilitate the share purchases on an ongoing basis on behalf of the Minister.

~~8.~~7. The parties desire to set out in this Agreement the process and mechanisms by which the equity injections and share purchases will occur and their respective roles and responsibilities in the Equity Injection Plan.

NOW THEREFORE the parties hereto agree as follows:

1. Confirmation of Equity Injection and Use of Funds

1.1 The Minister ~~commits to fund~~shall provide up to 44% of the total amount~~financing~~ required by the Fair Hydro Trust~~,~~ to acquire the Assets from the IESO under the Act and Regulations~~,~~ by way of equity subscriptions in OPG.

1.2 OPG agrees to use the equity received from the Minister solely to lend as subordinated debt to the Fair Hydro Trust to fund the Fair Hydro Trust's obligations under the [Master Sale and Servicing Agreement]**[NTD: confirm name]** between the IESO and the Fair Hydro Trust, and the Act and Regulations.

2. Monthly Share Subscription Process

2.1 The Minister, through the OFA, will subscribe for and purchase Class A Shares from OPG on a monthly basis, in an amount, and for a value, ~~as~~ to be determined by OPG in accordance with paragraph 2.2 below.

2.2 Each month, coincident with the asset acquisition to be made by the Fair Hydro Trust from the IESO under the [Master Sale and Servicing Agreement], OPG will provide notice to the Minister and the OFA of the amount of equity injection required and the corresponding number of shares to be issued by OPG and subscribed by the Minister. This notice will be in the form of the Share Subscription attached as Exhibit A. OPG will also provide reasonable supporting information for the values and amounts set out in the Share Subscription, in the form of the Subscription Supporting Information attached as Exhibit B.

2.3 For purposes of providing the reasonable supporting information required under paragraph 2.2 above, OPG agrees:

(i) that the value of the monthly equity injection/share subscription amount will reflect the monthly funding requirements of the Fair Hydro Trust acquisitions under the [Master Sale and Servicing Agreement]~~,~~; and

(ii) Class A Shares will be issued to the Minister at a value per share equal to their book value as determined from OPG's last approved quarterly financial statements. **[NTD: do we need any more specificity here?]**

2.4 Within ~~[five]~~ Business Days of receipt of the notice and supporting information described in paragraph 2.2, the Minister through the OFA, will deliver the executed Share Subscription to OPG and wire transfer, in immediately available funds, the required equity funds in accordance with the payment instructions set out in Exhibit D (or as may be otherwise provided by OPG from time to time). For purposes of this Agreement, "Business Day" means any day other than a Saturday, a Sunday or a day on which banking institutions in Toronto, Ontario are authorized or obligated by law, regulation or executive order to be closed.

- elsewhere too?
- is there a cap? is total amt known or subject to constraint somewhere? otherwise open-ended commitment
- OPG determines how much? Is this available
- Who executes the share subscription? What is the form of the subscription.
- what does it mean "through the OFA" - what obligation and liability is the OFA undertaking
- is OFA undertaking obligations-

2.5 OPG will issue a receipt to the Minister, ~~through and~~ the OFA, in the form of Exhibit C attached, confirming receipt of the equity amount and certifying as to the ~~update of OPG's~~ corporate share register with issue of the shares in the name of the Minister.

2.6 The first equity injection/share subscription will occur on [August x 2017] (the "Initial Equity Injection"). ~~Equity~~ injections will continue monthly so long as the ~~Fair Hydro Trust is purchasing assets and incurring~~ debt obligations, including subordinated debt in favour of OPG, pursuant to the Act and Regulations.

3. Equity Requirement Forecasts and Approvals

3.1 OPG will prepare and submit forecasts of equity requirements for the applicable business planning period as part of its business plan submissions to the Shareholder in accordance with the Memorandum of Agreement between the Minister and OPG effective July 17, 2015 (the "MOA") as amended, restated or replaced from time to time. For clarity, OPG will submit annually, as part of its business plan submissions, the FHP equity requirements forecast for the upcoming 3 years.

3.2 OPG's equity requirement forecast submissions will include all reasonable supporting information and documentation. **[NTD: any more specificity required?]**

3.3 The OFA and the Minister confirm that OPG's equity requirement forecasts submitted with OPG's business plans will not require concurrence by the Shareholder as set out in the MOA.

~~3.4 In accordance with the submissions made under paragraph 3.1 above, the Minister will update the appropriations for the upcoming 3 year cycle through the PRRT process, including 3 year rolling estimates along with supporting information as provided by OPG through its business planning process.~~ **~~[NTD: clarify that purpose of this clause is to confirm Energy will seek out and obtain required appropriations]~~**

4. Share Redemption Process

5.1 The Minister and OPG agree to set out the required process for any future redemption by OPG of outstanding Class A Shares in an appendix to this Agreement and attach it as Exhibit E. Exhibit E will be finalized before the first share redemption [and in any case no later than [90] Business Days before the effective date of such redemption]. **[NTD: confirm if need timeframe]**

6. Miscellaneous

6.1 Notices

Any notice, report or other communication to be given under this Agreement will be in writing and will be effective (a) upon receipt when sent by mail or courier, (b) on the date personally delivered to an authorized officer of the party to which sent, or (c) on the date transmitted by electronic transmission with a confirmation of receipt in all cases, addressed as follows:

in the case of the Minister:

■

in the case of the OFA:

■

in the case of OPG:

Ontario Power Generation Inc.
700 University Avenue

Toronto, Ontario
M5G 1X6

Attention: ■
Email: ■

and

Attention: ■
Email: ■

Each party may by notice given as above to the other party or parties hereto, designate any further or different address to which subsequent notices, reports and other communications will be sent.

6.2 Separate Counterparts; Electronic Delivery

This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered will be considered an original, but all such counterparts together constitute but one and the same instrument. Delivery of an executed signature page to this Agreement by a party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers as of the day and year first above written.

MINISTER OF ENERGY

_____

ONTARIO POWER GENERATION INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

~~**ONTARIO FINANCING AUTHORITY**~~

~~By:~~ _____
~~Name:~~
~~Title:~~

~~By:~~ _____
~~Name:~~
~~Title:~~

EXHIBIT A

SHARE SUBCRIPTION FORM

See attached

EXHIBIT B

SUBSCRIPTION SUPPORTING INFORMATION

[NTD: TBD what will support monthly equity injection calculation; for example Transfer Notice? Invoice?]

Exhibit C

FORM OF RECEIPT/OFFICER'S CERTIFICATE

EXHIBIT D

Payment/Wire Transfer Instructions

Bank: Bank of Nova Scotia
Address: 44 King Street West Toronto, Ontario MSH 1H1
SWIFT Code: NOSCCATT
Branch Transit: 47696
Bank Code: 002
Account Number: 476960302716

EXHIBIT E

SHARE REDEMPTION PROCESS

TBD

FHP call — Nov. 17 (1)

Alternate Plan for notice/consent for changes to documents

- No Notices to bondholders

Call w/ Torys/OPG.

~~Thom~~ Lubor Ladar OPG
John Lee OPG

Torys — Don't want to do this ~~case~~ in MTI b/c w/ rating agencies.

- Protection Agreement
  - Trustee
  - Issuer as party

S.A. — Interests of Province aligned w/ Issuer, not creditor)
Eg. 11.01

Notice
- No rights in Indenture
- Less of a legal protection, more moral suasion
- Doesn't create a legal right.
- Province wants to be specified as a secured creditor