From: John Kim
To: Ronald Kwan
Subject: A couple more emails
Date: Friday, September 08, 2017 12:42:41 PM
Attachments: Re Fair Hydro - Option for Province to Cure Default before Acceleration of Debt.msg
RE Fair Hydro - Option for Province to Cure Default before Acceleration of Debt.msg

From: Malle Hanslep (MOF) []
To: Anna Strathy [Anna.Strathy@ofina.on.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Carlos Yep [Carlos.Yep@ofina.on.ca]; James Devine [James.Devine@ofina.on.ca]; Gadi Mayman [Gadi.Mayman@ofina.on.ca]; Mike Manning [Mike.Manning@ofina.on.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; John Kim [John.Kim@ofina.on.ca]
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt
Date: Friday, September 08, 2017 12:37:56

What we are hearing on the call is that term debt is expected to be issued in late November just as Mike's info indicated.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Anna Strathy
Sent: Friday, September 8, 2017 12:33
To: Kandeepan, Ken (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA); Hanslep, Malle (MOF); Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Kim, John (OFA)
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Adding myself to this email chain.

Anna

-----Original Message-----
From: Gadi Mayman
Sent: Friday, September 08, 2017 12:14 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fw: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Original Message
From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, September 8, 2017 12:08 PM
To: Mike Manning; Tobias P. Whitfield (MOF); Ken Kandeepan; John Kim; Carlos Yep; James Devine; Gadi Mayman
Cc: Mike Manning
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Would the late September early Oct:ober issuance be expected to benefit from the provincial support agreement?

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Mike Manning
Sent: Friday, September 8, 2017 12:04
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Cc: Manning, Mike (OFA)
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

OPG doesn't have a full financing plan at this time. I believe they are hoping to firm up numbers from Energy fairly shortly, before they meet the ratings agencies. They are currently thinking of issuing $300 to

$500 million in late September/early October. Roughly $125 million of this will be to fund the subordinated (5% requirement on roughly $2.5 billion of annual funding). The senior debt (the 51% that we are focussing on) is roughly planned for late November with roughly $400 million of issuance and then follow-up issuance on a fairly regular basis thereafter. Hope this is helpful.
Regards, Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 11:39 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Slightly different question. Have you seen a draft of the financing plan or know when it might be available?

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Hanslep, Malle (MOF)
Sent: Friday, September 8, 2017 11:36
To: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Yes we just got this from Energy

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Mike Manning
Sent: Friday, September 8, 2017 11:02
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Hi Guys:
Not sure if you have seen this but passing it along. We may want to have this option, but running out of time.

Mike

From: WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
Sent: Thursday, September 07, 2017 4:20 PM
To: James Rehob (ENERGY) <James.Rehob@ontario.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Dear James,

During the discussions of the Provincial guarantee at a recent Thursday rate mitigation meeting, OPG raised the issue of potential acceleration of financing entity debt where the guarantee is not applicable. That would occur if there is an event of default (e.g. if the trust is not able to pay/service the debt) for a reason that doesn't trigger the guarantee (e.g. for a reason other than a change of the legislation).

When there is an acceleration, all of the principal amount becomes due and a large payment would need to be made by the financing entity to bondholders. If the acceleration occurs after the moratorium period, the amount payable to bondholders would be put through the Clean Energy Adjustment to specified consumers. That could result in a significant increase in consumer bills in a short period of time.

We understand that the Province may not want consumers to experience such a sharp bill increase. We discussed the Dealers whether the Province could be given the option to cure an event of default of a financing entity before it results in acceleration of debt. The Dealers were amenable to providing this option.

When we raised this possibility, the Province indicated it would like to have such an option, and asked us to put together a note describing the terms.

Please find attached a note describing the proposed terms of the option.

Let us know if you have any questions or comments, or if this should be directed to someone else.

Regards,

Les

Leslie Wong
Senior Counsel
Ontario Power Generation Inc.
700 University Avenue, H18 G26.1, Toronto, ON M5G 1X6
T: (416) 592-3110 | E: leslie.wong@opg.com<mailto:leslie.wong@opg.com>

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From: Mike Manning []
To: Malle Hanslep (MOF) [Malle.Hanslep@ontario.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; John Kim [John.Kim@ofina.on.ca]; Carlos Yep [Carlos.Yep@ofina.on.ca]; James Devine [James.Devine@ofina.on.ca]; Gadi Mayman [Gadi.Mayman@ofina.on.ca]
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt
Date: Friday, September 08, 2017 12:37:43

No it wouldn't, but that is a good question. I have been assuming that the provincial support agreement would only apply to the 51% senior debt, but OPG just let me know that the subordinated debt will be quite a bit more expensive without a provincial support agreement. Roughly, they currently estimate that the senior debt will be priced 20-25 bps over the Province of Ontario. The subordinated they see about 100 bps back of the Senior if it has a provincial support agreement. They are now indicating, based on dealer feedback, that without a provincial support agreement, the subordinated will be about 100-200 bps more expensive if it doesn't have a provincial support agreement. Anyway, I don't think we should be expanding the support to the subordinated debt as this will greatly increase the Province's exposure. We may have to address ways to keep the subordinated more cost-effective. Thoughts appreciated.

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 12:09 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

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To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
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Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

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<John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
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Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Hi Guys:
Not sure if you have seen this but passing it along. We may want to have this option, but running out of time.

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From: WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
Sent: Thursday, September 07, 2017 4:20 PM
To: James Rehob (ENERGY) <James.Rehob@ontario.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Dear James,

During the discussions of the Provincial guarantee at a recent Thursday rate mitigation meeting, OPG raised the issue of potential acceleration of financing entity debt where the guarantee is not applicable. That would occur if there is an event of default (e.g. if the trust is not able to pay/service the debt) for a reason that doesn't trigger the guarantee (e.g. for a reason other than a change of the legislation).

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to put together a note describing the terms.

Please find attached a note describing the proposed terms of the option.

Let us know if you have any questions or comments, or if this should be directed to someone else.

Regards,

Les

Leslie Wong
Senior Counsel
Ontario Power Generation Inc.
700 University Avenue, H18 G26.1, Toronto, ON M5G 1X6
T: (416) 592-3110 | E: leslie.wong@opg.com<mailto:leslie.wong@opg.com>

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From:	Ronald Kwan
To:	Tobias P. Whitfield (MOF)
Subject:	Accepted: Discussion regarding FHP issues
Start:	Monday, September 11, 2017 10:00:00 AM
End:	Monday, September 11, 2017 11:00:00 AM
Location:	Call (number to be circulated)

From: Ronald Kwan
To: Tobias P. Whitfield (MOF)
Subject: Accepted: Discussion regarding FHP issues

From: Ronald Kwan
To: HAHN PARKER Janet -TREASURY
Subject: Accepted: Fw: OPG - FHP - Guarantee

From: Ronald Kwan
To: HAHN PARKER Janet -TREASURY
Subject: Accepted: OPG - FHP - Guarantee Meeting and Conference Call

From: Ronald Kwan
To: "HAHN PARKER Janet -TREASURY"
Subject: Accepted: OPG - FHP - Guarantee Meeting and Conference Call

From: Ronald Kwan
To: Hresa Gavaris
Subject: Accepted: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Gwun-Hone Chin

From: Ronald Kwan
Sent: Thursday, July 27, 2017 2:20 PM
To: Anis Hirani
Subject: Accepted: Update on FHP Guarantee

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF)
Cc:	Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy
Subject:	Canceled: Discussion regarding FHP issues
Importance:	High

Looks like 1pm works for most people. Will go forward with that time.

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Please let me know if this time doesn't work, and we can try to find a different time.

Toby

From:	Montgomery, Kaitlin (MOF)
To:	Gadi Mayman; Ronald Kwan
Cc:	Carolyn Calwell (MCSS); Steen Hume (CAB); Ken Kandeepan; Tom McKinlay (MAG); ASHBOURNE, STEPHEN; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF); Scott Nelms (ENERGY); Hresa Gavaris; Anna Strathy; Ken Kandeepan
Subject:	Canceled: Hold | Meeting with OPG on Provincial Protection and Assurances Term Sheet - Fair Hydro
Importance:	High

I have forwarded the formal invite for tomorrow from Torys.

Kaitlin

From: Jonathan.Tekle@ontario.ca on behalf of Thompson, Scott (MOF)

To: Marianne Nguyen (MCYS); Jonathan Tekle (CAB); @FIN-R-TOR.7QueensParkCres.Deputy.Boardroom (MOF); Helmut Zisser (MOF); Linda Gibney (MOF); Anthony Reiss (MGS); Bridget Jeanes (MGS); Gadi Mayman; Ronald Kwan; Ken Kandeepan; Nancy Kennedy (MOHLTC); Scott Nelms (ENERGY); Malle Hanslep (MOF); Veinot, Cindy (TBS); Francisco Chinchon; Darren Scanlan; Shi, Wentao (MAESD)

Subject: DM\MO Briefing | Provincial Support Agreement to OPG Financing Entity and H1 Brampton Trillium Trust (Sept 26th TB\MBC)

From:	Gadi Mayman
To:	David McLean (MOF)
Cc:	Ronald Kwan; Anna Strathy
Subject:	DM\MO Briefing | Provincial Support Agreement to OPG Financing Entity and H1 Brampton Trillium Trust (Sept 26th TB\MBC)
Date:	Tuesday, September 05, 2017 8:49:02 PM

Hi Dave. This meeting is scheduled at the same time as Serge has invited Ron and me to a multi Ministry meeting on Watay and the proposed $1.5 billion loan to finance the remote grid connection for First National communities in the northwest. I'm guessing that Scott Nelms was probably also invited to that meeting.

Would it be possible to move this briefing so that we can participate in both? If not we'll send others to the Energy multi-ministry.

Thanks,
Gadi

Organizer: Thompson, Scott (MOF)
When: 2:00 PM - 2:50 PM September 12, 2017
Subject: DM\MO Briefing | Provincial Support Agreement to OPG Financing Entity and H1 Brampton Trillium Trust (Sept 26th TB\MBC)
Location: DM Boardroom, 7th Floor, FS

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF); Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy; Karpowicz, Eva (MOF)
Subject:	Discussion regarding FHP issues

There are some conflicts with the 10 am time. If people are free either this time at 1, or 3:30 will also work.

Please let me know asap, and if not we can keep the original time.

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Toby

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	Discussion regarding FHP issues
Start:	Monday, September 11, 2017 10:00:00 AM
End:	Monday, September 11, 2017 11:00:00 AM
Location:	Call (number to be circulated)

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Please let me know if this time doesn't work, and we can try to find a different time.

Toby

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF); Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy; Karpowicz, Eva (MOF)
Subject:	Discussion regarding FHP issues
Attachments:	Memorandum on Acceleration Proposal.docx

We will go with this time as it works for most people. Thanks.

Dial in:
Number: 416-212-8012
Toll Free: 1-866-633-0848
Participant Passcode: 5801207#

Also, for those who haven't seen it, attached is an OPG memo on acceleration issues.

There are some conflicts with the 10 am time. If people are free either this time at 1, or 3:30 will also work.

Please let me know asap, and if not we can keep the original time.

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Toby

Memorandum

To: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Date: August 30, 2017

From: Ontario Power Generation Inc.

Subject: Acceleration of Ontario Fair Hydro Plan Act Obligations

Under the *Ontario Fair Hydro Plan Act*, 2017, clean energy adjustments are designed to recover the "funding obligations" and "finance amounts" (as defined in the Act and regulations thereunder, respectively, collectively referred to as the "**Obligations**") that become due during a reference period (each generally a six month period). This means that if there is an event of default under the master trust indenture (the "**Indenture**") that is not or cannot be cured, the full amount of the accelerated Obligations may become due and payable and be included in the calculation of the clean energy adjustments for the next reference period. Furthermore, it is likely that all funding obligations will be cross-defaulted to each other, so acceleration of one series of funding obligations will likely result in acceleration of all funding obligations. Accordingly, electricity rates for specified consumers would be set at a rate for a six-month period that would result in repayment in full of all outstanding and accelerated Obligations. On the assumption that all interested parties would like to avoid such a scenario, we have discussed with the dealers the following as an approach in the context of an event of default:

1. Upon the occurrence of a Default under the Indenture (being an event which, with the passage of time or giving of notice could become an Event of Default), the Province would have the following rights:

(a) a right to receive written notice from the trustee under the Indenture (at the same time that such trustee provides a notice to the financing entity through OPG as the manager) that a Default has occurred;

(b) in the event of the occurrence of an Event of Default that is not based upon the occurrence of a Default followed by a cure period (such as insolvency of the financing entity), a right to receive written notice from the trustee under the Indenture that an Event of Default has occurred; and

(c) a right to cure the Default or the Event of Default, as the case may be, within a specified cure period, which will run concurrently with any cure period available under the Indenture with respect to the applicable Event of Default.

2. The Indenture will provide that notwithstanding the occurrence of an Event of Default, the Obligations may not be accelerated until the expiry of the cure period available to the Province. If the Default or Event of Default in question cannot be cured by the Province on behalf of the financing entity within this cure period, then the Province will have the option to "cure" and avoid acceleration of the Obligations by assuming those Obligations. This option would be set out in the provincial protection and assurances agreement. In such circumstances, as in the case of a change of law, the Fair Hydro program would be discontinued and the Obligations owing under the program would be those of the Province.

From:	Anna Strathy
To:	Malle Hanslep (MOF); Ronald Kwan; Mike Manning; John Kim; John Psinas; Keley Katona (ENERGY); James Devine; Carlos Yep; Montgomery, Kaitlin (MOF); Gadi Mayman; Scott Nelms (ENERGY)
Cc:	Tobias P. Whitfield (MOF); Ken Kandeepan; Carolyn Calwell (MCSS); Tom McKinlay (MAG); Elcombe, James (MOF); "STEPHEN.ASHBOURNE@blakes.com"
Subject:	EXTERNAL – Revised Term Sheet & summary slides

To review Steve Ashbourne's comments on the draft term sheet.

For those looking to dial in:

_____

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Monday, August 21, 2017 2:26 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca <mailto:Ronald.Kwan@ofina.on.ca> >; Mike Manning <Mike.Manning@ofina.on.ca <mailto:Mike.Manning@ofina.on.ca> >; John Kim <John.Kim@ofina.on.ca <mailto:John.Kim@ofina.on.ca> >; John Psinas <John.Psinas@ofina.on.ca <mailto:John.Psinas@ofina.on.ca> >; Keley Katona (ENERGY) <Keley.Katona@ontario.ca <mailto:Keley.Katona@ontario.ca> >; James Devine <James.Devine@ofina.on.ca <mailto:James.Devine@ofina.on.ca> >; Carlos Yep <Carlos.Yep@ofina.on.ca <mailto:Carlos.Yep@ofina.on.ca> >; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca <mailto:Kaitlin.Montgomery@ontario.ca> >; Gadi Mayman <Gadi.Mayman@ofina.on.ca <mailto:Gadi.Mayman@ofina.on.ca> >; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca <mailto:Scott.Nelms@ontario.ca> >
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca <mailto:Anna.Strathy@ofina.on.ca> >; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca <mailto:Tobias.Whitfield@ontario.ca> >; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca <mailto:Ken.Kandeepan@ofina.on.ca> >; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca <mailto:Carolyn.Calwell@ontario.ca> >; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca <mailto:Tom.McKinlay@ontario.ca> >; Elcombe, James (MOF) <James.Elcombe@ontario.ca <mailto:James.Elcombe@ontario.ca> >
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

Please find attached comments on the term sheet prepared by Steve Ashbourne, Province's external counsel, for our review and consideration. These comments are prepared for the purposes of internal discussion at the proposed meeting of Provincial staff and should not with others outside the Province.

Thank you.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
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Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

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I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	Anna Strathy
To:	Malle Hanslep (MOF); Ronald Kwan; Mike Manning; John Kim; John Psinas; Keley Katona (ENERGY); James Devine; Carlos Yep; Montgomery, Kaitlin (MOF); Gadi Mayman; Scott Nelms (ENERGY)
Cc:	Tobias P. Whitfield (MOF); Ken Kandeepan; Carolyn Calwell (MCSS); Tom McKinlay (MAG); Elcombe, James (MOF); "STEPHEN.ASHBOURNE@blakes.com"
Subject:	EXTERNAL – Revised Term Sheet & summary slides

Apologies for the multiple updates.

For those not familiar with the location it is 1 Dundas street West, 14th floor, executive boardroom.

Thanks,
Matt Breadner on behalf of Anna Strathy

For those looking to dial in:

_____
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Monday, August 21, 2017 2:26 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca <mailto:Ronald.Kwan@ofina.on.ca> >; Mike Manning <Mike.Manning@ofina.on.ca <mailto:Mike.Manning@ofina.on.ca> >; John Kim <John.Kim@ofina.on.ca <mailto:John.Kim@ofina.on.ca> >; John Psinas <John.Psinas@ofina.on.ca <mailto:John.Psinas@ofina.on.ca> >; Keley Katona (ENERGY) <Keley.Katona@ontario.ca <mailto:Keley.Katona@ontario.ca> >; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca <mailto:Carlos.Yep@ofina.on.ca> >; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca <mailto:Kaitlin.Montgomery@ontario.ca> >; Gadi Mayman <Gadi.Mayman@ofina.on.ca <mailto:Gadi.Mayman@ofina.on.ca> >; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca <mailto:Scott.Nelms@ontario.ca> >
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca <mailto:Anna.Strathy@ofina.on.ca> >; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca <mailto:Tobias.Whitfield@ontario.ca> >; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca <mailto:Ken.Kandeepan@ofina.on.ca> >; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca <mailto:Carolyn.Calwell@ontario.ca> >; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca <mailto:Tom.McKinlay@ontario.ca> >; Elcombe, James (MOF) <James.Elcombe@ontario.ca <mailto:James.Elcombe@ontario.ca> >
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

Please find attached comments on the term sheet prepared by Steve Ashbourne, Province's external counsel, for our review and consideration. These comments are prepared for the purposes of internal discussion at the proposed meeting of Provincial staff and should not with others outside the Province.

Thank you.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY); Elcombe, James (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

Perhaps Matt (on behalf of Anna) could arrange a time in the next day or two. Would Steve Ashbourne have provided written comments that could be circulated in advance.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 12:36
To: Mike Manning <Mike.Manning@ofina.on.ca <mailto:Mike.Manning@ofina.on.ca> >; Ronald Kwan <Ronald.Kwan@ofina.on.ca <mailto:Ronald.Kwan@ofina.on.ca> >; John Kim <John.Kim@ofina.on.ca <mailto:John.Kim@ofina.on.ca> >; John Psinas <John.Psinas@ofina.on.ca <mailto:John.Psinas@ofina.on.ca> >; Keley Katona (ENERGY) <Keley.Katona@ontario.ca <mailto:Keley.Katona@ontario.ca> >; James Devine

<James.Devine@ofina.on.ca <mailto:James.Devine@ofina.on.ca> >; Carlos Yep <Carlos.Yep@ofina.on.ca <mailto:Carlos.Yep@ofina.on.ca> >; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca <mailto:Kaitlin.Montgomery@ontario.ca> >; Gadi Mayman <Gadi.Mayman@ofina.on.ca <mailto:Gadi.Mayman@ofina.on.ca> >; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca <mailto:Scott.Nelms@ontario.ca> >
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca <mailto:Anna.Strathy@ofina.on.ca> >; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca <mailto:Tobias.Whitfield@ontario.ca> >; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca <mailto:Ken.Kandeepan@ofina.on.ca> >; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca <mailto:Carolyn.Calwell@ontario.ca> >; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca <mailto:Tom.McKinlay@ontario.ca> >; Elcombe, James (MOF) <James.Elcombe@ontario.ca <mailto:James.Elcombe@ontario.ca> >
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

We have received comments back on the term sheet from Steve Ashbourne, the Province's external counsel, and think it would be helpful to have an internal Provincial meeting to review the comments on the draft. On the legal side, it might be helpful to get some more insight into how the proposed guarantee and warehouse facility are to work from a business perspective. In addition, we are awaiting further draft documents that set the context and describe what is to be guaranteed as I understand that Torys (OPG's counsel) has been working on these.

It would be helpful to coordinate such a meeting soon with the appropriate Provincial representatives.

Thanks.

Malle

From: Hanslep, Malle (MOF)
Sent: August 17, 2017 9:23 AM
To: Kandeepan, Ken (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

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It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

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From:	Gadi Mayman
To:	Mike Manning
Cc:	Ronald Kwan; Ken Kandeepan; Anna Strathy
Subject:	FHP Debt guarantee
Date:	Monday, June 19, 2017 9:45:09 AM

Hi Mike, who's working on the OPG guarantee while you're away? I'm at a meeting with Energy and Steen came up to me quite concerned to say that the latest version they saw from OPG and Tories was for quite a broad guarantee, including a make whole provision. If that's the case, it doesn't sound like they've taken on our comments and our unwillingness to provide a make whole, or a put, or any structure that could expose to the Province to having to make a multi-billion dollar payment rather than just stepping having to step in to replace OPG's coupon and principal payment obligations when they come due.

Thanks,
Gadi

From:	Whitfield, Tobias P. (MOF)
To:	Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Gadi Mayman; Anna Strathy
Cc:	Malle Hanslep (MOF)
Subject:	FHP Support Agreement OIC Draft
Date:	Thursday, September 07, 2017 5:53:34 PM
Attachments:	OIC - FHP S.5 Draft September 7.doc

Please find attached, for your review and comment, a draft OIC authorizing the Minister of Finance and the Minister of Energy to give a guarantee/indemnity under the Fair Hydro Plan Act.

This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON
M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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WHEREAS 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 to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest as described under the Act;

AND WHEREAS pursuant to subsection 22(2) of the Act, Ontario Power Generation Inc. as financial services manager, may establish or cause to be established one or more financing entities (a "Financing Entity") that may incur funding obligations in connection with investment interests**;**

AND WHEREAS it is considered desirable to authorize the Minister of Energy and the Minister of Finance to agree to guarantee or indemnify debts, obligations, securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity;

NOW THEREFORE:

1. Pursuant to subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017*, the Minister of Energy and the Minister of Finance, acting together on behalf of Ontario, are authorized to enter into one or more agreements to guarantee or indemnify the debts, obligations securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity. **[NTD: This mirrors the wording of the section so doesn't scope the guarantee in any way except by relating it to a Financing Entity.]**

[Should the OIC narrow the scope of the guarantee? principal/interest/penalties/costs/ expenses/other obligations such as fees to service providers and payments under derivatives agreements? Some more specificity may be desirable here – usually the Province guarantees payment of principal and interest only, not penalties or other costs on debt securities and loans. We should consider whether the OIC needs to specify if guaranteeing payments on other agreements other than debt securities issued or loans taken out, understanding that a broader form of guarantee may be desired in this case. Fees payable to service providers and derivatives counterparties would generally be established under separate agreements although they are referenced in the waterfall provisions in the master trust indenture.]

2. The Minister of Energy and the Minister of Finance, acting together on behalf of Ontario are authorized to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee and indemnity authorized under paragraph 1 of this Order, **[provided that**

the maximum aggregate [principal amount] guaranteed/[maximum liability] shall not exceed $XX.] [NTD: Need to determine whether maximum amount will be inserted here or the two Ministers will determine maximum liability in guarantee agreement].

3. NTD: SHOULD LGIC SPECIFY ANY OTHER TERMS AND CONDITIONS IN THE ORDER OR SHOULD ALL OTHER TERMS AND CONDITIONS BE SET BY THE TWO MINISTERS?

Recommended _____ Concurred _____
Minister of Energy/Minister of Finance Chair of Cabinet

Approved
and Ordered _____ _____
Date Lieutenant Governor

From: Anna Strathy
To: Ronald Kwan
Cc: John Kim; Deena Padamadan
Subject: FHP TB submission
Date: Friday, August 25, 2017 3:34:05 PM

Hi Ron,

I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised

term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend,

so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director

Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]

Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this

message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

From: Ronald Kwan on behalf of Whitfield, Tobias P. (MOF)
To: john
Subject: FW: Discussion regarding FHP issues

-----Original Appointment-----
From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: September-08-17 13:57
To: Whitfield, Tobias P. (MOF); Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com <mailto:stephen.ashbourne@blakes.com> ; Malle Hanslep (MOF); Elcombe, James (MOF)
Subject: Discussion regarding FHP issues
When: September-11-17 10:00-11:00 (UTC-05:00) Eastern Time (US & Canada).
Where: Call (number to be circulated)

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Please let me know if this time doesn't work, and we can try to find a different time.

Toby

From:	Ronald Kwan on behalf of Whitfield, Tobias P. (MOF)
To:	John Kim; Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF); Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy; Karpowicz, Eva (MOF)
Subject:	FW: Discussion regarding FHP issues
Attachments:	Memorandum on Acceleration Proposal.docx

-----Original Appointment-----
From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: September-11-17 09:33
To: Whitfield, Tobias P. (MOF); Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF); Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy; Karpowicz, Eva (MOF)
Subject: Discussion regarding FHP issues
When: September-11-17 13:00-14:00 (UTC-05:00) Eastern Time (US & Canada).
Where: Call - 416-212-8012 - Toll Free: 1-866-633-0848 - Passcode: 5801207#

We will go with this time as it works for most people. Thanks.

Dial in:
Number: 416-212-8012
Toll Free: 1-866-633-0848
Participant Passcode: 5801207#

Also, for those who haven't seen it, attached is an OPG memo on acceleration issues.

There are some conflicts with the 10 am time. If people are free either this time at 1, or 3:30 will also work.

Please let me know asap, and if not we can keep the original time.

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Toby

Memorandum

To: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Date: August 30, 2017

From: Ontario Power Generation Inc.

Subject: Acceleration of Ontario Fair Hydro Plan Act Obligations

Under the *Ontario Fair Hydro Plan Act*, 2017, clean energy adjustments are designed to recover the "funding obligations" and "finance amounts" (as defined in the Act and regulations thereunder, respectively, collectively referred to as the "**Obligations**") that become due during a reference period (each generally a six month period). This means that if there is an event of default under the master trust indenture (the "**Indenture**") that is not or cannot be cured, the full amount of the accelerated Obligations may become due and payable and be included in the calculation of the clean energy adjustments for the next reference period. Furthermore, it is likely that all funding obligations will be cross-defaulted to each other, so acceleration of one series of funding obligations will likely result in acceleration of all funding obligations. Accordingly, electricity rates for specified consumers would be set at a rate for a six-month period that would result in repayment in full of all outstanding and accelerated Obligations. On the assumption that all interested parties would like to avoid such a scenario, we have discussed with the dealers the following as an approach in the context of an event of default:

1. Upon the occurrence of a Default under the Indenture (being an event which, with the passage of time or giving of notice could become an Event of Default), the Province would have the following rights:

(a) a right to receive written notice from the trustee under the Indenture (at the same time that such trustee provides a notice to the financing entity through OPG as the manager) that a Default has occurred;

(b) in the event of the occurrence of an Event of Default that is not based upon the occurrence of a Default followed by a cure period (such as insolvency of the financing entity), a right to receive written notice from the trustee under the Indenture that an Event of Default has occurred; and

(c) a right to cure the Default or the Event of Default, as the case may be, within a specified cure period, which will run concurrently with any cure period available under the Indenture with respect to the applicable Event of Default.

2. The Indenture will provide that notwithstanding the occurrence of an Event of Default, the Obligations may not be accelerated until the expiry of the cure period available to the Province. If the Default or Event of Default in question cannot be cured by the Province on behalf of the financing entity within this cure period, then the Province will have the option to "cure" and avoid acceleration of the Obligations by assuming those Obligations. This option would be set out in the provincial protection and assurances agreement. In such circumstances, as in the case of a change of law, the Fair Hydro program would be discontinued and the Obligations owing under the program would be those of the Province.

From: Anna Strathy
To: Ronald Kwan
Subject: FW: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 2:40:08 PM

Hi Ron,

Keley is wondering on the status of the additional slide on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.

Thanks,
Matt on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 2:37 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Just checking in on the slide. I'm hoping to share the deck with MOF legal soon but would like to share the updated deck.

From: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Date: Thursday, Aug 24, 2017, 9:52 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]

Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona

Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

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From:	Ronald Kwan
To:	John Kim
Subject:	FW: Draft Provincial Guarantee Deck
Date:	Thursday, August 24, 2017 12:08:38 PM

FYI John.
Ron

From: Anna Strathy
Sent: August-24-17 11:10
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi Ron,

As per Keley's comments below, Scott wants to exclude items not covered by the guarantee for the Minister's briefing so they are deleting slides 5/6.

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 11:07 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi Matt,
I just talked to Scott and we think it's best to exclude the items not covered by the guarantee for the Minister's briefing. The briefing should just focus on the guarantee (so we will delete slides 5/6).
Thanks,
Keley

From: Katona, Keley (MOF)
Sent: August 24, 2017 9:52 AM
To: 'Anna Strathy' <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM

To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main

OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

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From:	Anna Strathy
To:	Ronald Kwan
Subject:	FW: Draft Provincial Guarantee Deck
Date:	Thursday, August 24, 2017 11:09:46 AM

Hi Ron,

As per Keley's comments below, Scott wants to exclude items not covered by the guarantee for the Minister's briefing so they are deleting slides 5/6.

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 11:07 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi Matt,
I just talked to Scott and we think it's best to exclude the items not covered by the guarantee for the Minister's briefing. The briefing should just focus on the guarantee (so we will delete slides 5/6).
Thanks,
Keley

From: Katona, Keley (MOF)
Sent: August 24, 2017 9:52 AM
To: 'Anna Strathy' <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,

Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

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From: Ronald Kwan
To: John Kim
Subject: FW: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 10:08:18 AM
Attachments: ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v2.pptx

---

Hi John,

Let's discuss.

Ron

From: Anna Strathy
Sent: August-24-17 10:01
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Ron,

Attached is the revised deck.

If you'd like me to push back on us being responsible for compiling that slide, I can do so.

Thanks,
Matt

From: Ronald Kwan
Sent: Thursday, August 24, 2017 9:42 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

Would you send me the revised deck and we can work on a slide.

That said, I believe the OIC requirement is in the draft TB submission that they seemed to have drawn on, and they should be very familiar with the requirements of the OFHP Act.

Ron

On Aug 24, 2017, at 9:38 AM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Ron,
>
> As per your question, this deck will be shared with both DMOs once its finalized.
>
> They've incorporated the feedback we provided, with the exception of the additional

slide you'd suggested on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.

Keley is asking if the OFA can put that slide together. Is this something your team could assemble? Or would it be more appropriate for me to distribute to someone else?

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 4:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.

I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and what about the TB submission too?).

Also, I would suggest that the slide on the IESO and LC note that the proposal was from OPG and the IESO was going to review the proposal (unless Keley has now heard back from the IESO and the option is fine with them?).

Generally, then, it might be good to note the work-in-progress status.

And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

From: Anna Strathy
Sent: August 23, 2017 4:17 PM

To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

Hi All,

Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers [Comment from OPG: I think the assumption should be that the Province services the debt and service providers rather than replacing the debt with Provincial debt. Similarly, service providers would continue on except for maybe OPG as FSM but the Province already has that ability so there is nothing additional required.]
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- If a guarantee is provided, the Province takes on a contingent liability
  - The creation of a contingent liability will not currently affect net debt
  - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (TBC)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
  - The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed is servicing under the guarantee

Events Not Covered by the Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
    - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
    - The structure of the warehousing is subject to change
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk would be addressed through an escalation of the pricing of such short term debt:
    - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends [OPG COMMENT: Interest rate continues to increase every 6 months and is not related to ending of moratorium period. At end of moratorium period if the short term debt is paid off then there is no issue. However, if short term debt continues to be outstanding then rate should continue to increase until fully repaid]
    - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

Events Not Covered by Provincial Guarantee

LDC Comingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity
    - For any LDC which is not rated by rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless a mitigation strategy is in place
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's
    - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk could be addressed through providing the financing entity with a letter of credit:
    - Amount of letter of credit is approximately one to two months estimated collections from all unrated or non-investment grade LDCs
    - Letter of credit to be provided by the IESO on behalf of the LDCs
    - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

Approvals

- [NEW SLIDE]

Next Steps

- Continue to work through outstanding issues related to the provincial guarantee
- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC

From: Ronald Kwan
To: John Kim
Subject: FW: Draft Provincial Guarantee Deck
Date: Wednesday, August 23, 2017 11:41:21 AM
Attachments: ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v1.pptx

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Hi John,

We should mark this up. It seems to have drawn from Anna`s draft TB submission, without, of course, the markup changes I'd be recommending to Matt.

Ron

From: Anna Strathy
Sent: August-23-17 10:59
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Fair Hydro Act, 2017,* enables the IESO to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
    - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
    - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
    - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
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- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity
    - For any LDC which is not rated by rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless a mitigation strategy is in place
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's
    - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk could be addressed through providing the financing entity with a letter of credit:
    - Amount of letter of credit is approximately one to two months estimated collections from all unrated or non-investment grade LDCs
    - Letter of credit to be provided by the IESO on behalf of the LDCs
    - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

Next Steps

- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
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- [Others]

From:	Anna Strathy
To:	Ronald Kwan; Mike Manning; John Kim; John Psinas; James Devine; Carlos Yep
Cc:	Ken Kandeepan; Gadi Mayman
Subject:	FW: Draft Provincial Guarantee Deck
Date:	Wednesday, August 23, 2017 10:59:21 AM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v1.pptx

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Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

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Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

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Next Steps

- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- [Others]

From:	Anna Strathy
To:	Ronald Kwan
Cc:	John Kim
Subject:	FW: Draft Provincial Guarantee Deck
Date:	Friday, August 25, 2017 8:47:49 AM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v3.pptx

Hi Ron,

Attached is the latest deck which will be shared with MOF and energy DMOs.

Any recommendation on who could attend from the OFA? Meeting is next Tuesday 1:30pm.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 5:01 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks for this. We made a few changes. Here's the latest which we plan to share as draft with MOF / ENERGY DMOs and also with MOF legal. I expect that MOF LSB will have comments which we will reflect tomorrow. Any update on who from the OFA could attend the briefing. It's scheduled for Tuesday at 1:30pm.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 4:22 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the delayed response, see attached on the additional slide and other suggestions on the attached markup.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 2:37 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Just checking in on the slide. I'm hoping to share the deck with MOF legal soon but would like

to share the updated deck.

From: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Date: Thursday, Aug 24, 2017, 9:52 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

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Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Thursday August 24th, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset – the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable or would result in higher financing costs, to be passed on to ratepayers
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provisions Under the Act

- As contemplated under the Act, OPG is requesting a Provincial Guarantee to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee or indemnity*

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
    - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
    - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
    - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers
    - The Province would service the debt and service providers rather than replace the debt with Provincial debt but could replace OPG as the financial services manager
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered
- Additional details, including terms and conditions to be specified by the LGIC in an Order-In-Council (OIC), or by the Ministers, need to be settled on, as the approvals process proceeds

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- OPCD will need to review the details of the proposed Provincial Guarantee to be provided for any accounting implications
    - E.g., an unlimited Provincial Guarantee may cause the debt to be treated as Provincial debt
- If a guarantee is provided, the Province takes on a contingent liability
    - The creation of a contingent liability will not currently affect net debt
    - The amount of the liability will increase over the duration of the Fair Hydro Plan
        - The most recent estimate for total debt to be financed by a financing entity would be in the range of $11 billion (assuming a 5% interest rate)
- In the event the guarantee is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
    - The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee

Next Steps

- Continue to work through outstanding issues related to the provincial guarantee
- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC
    - The term sheet would inform a proposed OIC
        - Whether to include a maximum liability amount would need to be considered in developing the TB submission and the request for the OIC
- The guarantee agreement would need to be drafted in accordance with the OIC

From:	Anna Strathy
To:	Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep; John Psinas
Cc:	Ken Kandeepan; Gadi Mayman
Subject:	FW: Draft Provincial Guarantee Deck for Minister of Energy Briefing
Date:	Friday, August 25, 2017 10:36:12 AM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v3 - MOF Legal.pptx

Hi All,

One more round of comments on the briefing deck for the Minister of Energy on the FHP Provincial Guarantee.

We're being asked if we're ok with MOF LSB edits (tracked in red). Please let me know by mid-day if there are any further comments.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Friday, August 25, 2017 10:23 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi Matt,
Is OFA comfortable with the edits made by MOF LSB? I went through and was able to track them in red in the attached. It would be helpful if you could let me know by mid-day if there are any further edits / comments.
Thanks,
Keley

From: Katona, Keley (MOF)
Sent: August 25, 2017 10:21 AM
To: Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi Toby,
Thanks for these comments. We had provided an initial draft to ENERGY legal to review but have not received any comments. We are planning to make it clear at the briefing that this is a work in progress.
Keley

From: Whitfield, Tobias P. (MOF)
Sent: August 25, 2017 9:53 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>

Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Keley,

I have attached some comments. Because it is a powerpoint, there are no track changes.

I have some larger concerns. The current proposal in the draft term sheet is based on the proposal of OPG and the Dealers, and there are a number of issues with the new way that it is structured. I think the materials need to reflect the contingent nature and the fact that some of these points are still subject to negotiation. For instance, the recent version of the term sheet collapses the former "performance guarantee" of the Province with respect to the IESO to a change in law type of provision, which may be acceptable after some more consideration and negotiation, but is a new concept that has not been discussed between the parties. This is one of several issues that is still up for negotiation and may change significantly from the current form.

In addition, I have changed the use of "guarantee" to "support agreement" to reflect the limited and contingent nature of the Province's obligations.

I also wonder, if given that the presentation is to the Minister of Energy, that Energy legal should take a look as well.

Let me know if I can be of further assistance.

Best,
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Katona, Keley (MOF)
Sent: August 24, 2017 5:12 PM
To: Whitfield, Tobias P. (MOF)
Cc: Strathy, Anna (OFA); Hanslep, Malle (MOF)
Subject: Draft Provincial Guarantee Deck for Minister of Energy Briefing

HI Toby,

We've been asked to brief the Minister of Energy on the Provincial Guarantee next week. Attached is a draft deck developed with input from the OFA. We are hoping you can review and provide any comments you may have by mid-day tomorrow so that we can finalize and send to ENERGY for weekend review.

Happy to discuss if you have any questions.

Thanks,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Ontario

Provincial Support Agreement

Briefing for Minister of Energy

DRAFT – Thursday August 24th, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset – the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable or would result in higher financing costs, to be passed on to ratepayers
- OPG has requested that the Province provide a support agreement that supports the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would guarantee the repayment of the funding obligations of the Financing Entity

Provisions Under the Act

- As contemplated under the Act, OPG is requesting a Provincial commitment to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts in certain limited circumstances
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee or indemnity*

Provincial Support Agreement

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial support, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares the rights of the Financing Entity to recover amounts from ratepayers to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province may take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers
  - The Province could potentially service the debt and service providers rather than replace the debt with Provincial debt and could replace OPG as the financial services manager
- The support agreement may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered
- Additional details, including terms and conditions to be specified by the LGIC in an Order-In-Council (OIC), or by the Ministers, need to be settled on, as the approvals process proceeds

Considerations

- If a support agreement is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- OPCD will need to review the details of the proposed Provincial support agreement for any accounting implications
    - E.g., an unlimited Provincial guarantee would cause the debt to be treated as Provincial debt
- If a support agreement is provided, the Province takes on a contingent liability
    - The creation of a contingent liability will not currently affect net debt
    - The amount of the liability will increase over the duration of the Fair Hydro Plan
        - The most recent estimate for total debt to be financed by a financing entity would be in the range of $11 billion (assuming a 5% interest rate)
- In the event the support agreement is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
    - The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the support agreement

Next Steps

- Continue to work through outstanding issues related to the provincial support agreement
- Negotiate draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC
    - The term sheet would inform a proposed OIC
        - Whether to include a maximum liability amount would need to be considered in developing the TB submission and the request for the OIC
- The support agreement would need to be drafted in accordance with the OIC

From:	Ronald Kwan
To:	Malle Hanslep (MOF); Tobias P. Whitfield (MOF)
Cc:	John Kim; Bruno Amara
Subject:	FW: Draft Provincial Support Agreement
Date:	Friday, June 23, 2017 5:57:55 PM
Attachments:	23148306-v8-Term Sheet - Provincial Support Agreement - May 12.DOCX 23148306v1_Term Sheet - Provincial Support Agreement - May 12 - 23148306....pdf

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From: Gadi Mayman
Sent: June-23-17 17:49
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: Fw: Draft Provincial Support Agreement

From: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>
Sent: Friday, June 23, 2017 5:31 PM
To: Carolyn Calwell (MCSS); Steen Hume (CAB); ASHBOURNE, STEPHEN; Gadi Mayman; JACKSON, ADAM
Subject: FW: Draft Provincial Support Agreement

fyi

From: Nelms, Scott (MOF)
Sent: June 23, 2017 5:03 PM
To: John Lee - Ontario Power Generation (john.s.lee@opg.com)
Subject: Draft Provincial Support Agreement

Hi John,

Please see the attached markup of the Provincial Support Agreement. This has been reviewed by lawyers and policy folks from Energy, MoF, OFA and TBS. Please treat this as an early draft designed to spur discussion. It takes some concepts up a level as we felt that some of the detail in the OPG draft should be settled once the specific loan documents were available for review.

I would suggest we find time to regroup with appropriate people to discuss once we are through regulation approvals next week.

Thanks and have a good weekend,

Scott

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Servicing Guarantees	
Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Servicing Guarantee:	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.
Term:	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.
Satisfaction of a 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 as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	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.

Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
Addressing Mismatches	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 Mismatches	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 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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Servicing Guarantees	
Servicing Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.
~~**Term:**~~	~~The Guarantor's obligations under the Provincial Support~~

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

	~~Agreement will continue until **[one year]**[1] after all 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**~~**Servicing Guarantee:**	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Servicing Guarantee, the Servicing Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, or cause the performance ~~of (which may be by way of the appointment of a replacement servicer)~~, of the obligations of IESO as servicer under ~~the MSSA and~~ 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Servicing Guarantee is held to be unenforceable against the Servicing Guarantor, the ~~Provincial Support Agreement~~Servicing Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Servicing Guarantor.
Term:	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

[1] ~~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.~~

	intended to be secured by the Servicing Guarantee.
Satisfaction of a 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 as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
~~**Payment Guarantee Event**~~**Indemnity of the Province:**	~~A Payment Guarantee Event will occur if~~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: (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
Term:	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.
~~**Payment Guarantee**~~**Satisfaction of an Indemnity:**	~~Upon the occurrence of a Payment Guarantee Event under clauses (A), (B) or (C) of the above definition:~~ The Indemnitor will have the option to satisfy its obligations under an Indemnity in respect of a funding obligation by: (x) ~~the Guarantor shall assume~~ assuming and ~~pay~~paying when due (without acceleration) ~~all funding obligations and all other obligations of the Financing Entities to the Beneficiaries by paying all~~the regularly scheduled amounts due and payable in respect ~~thereof~~of the funding obligation during the term ~~of each~~and to the extent of the applicable Financing Entity's contractual ~~obligation to such Beneficiaries; and~~obligations thereunder; or (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~~ 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 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~~. 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~~ up to the date of payment (without any default, penalty, prepayment or make whole ~~amounts~~premium).
Approval Requirement:	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.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the ~~Guarantor~~Indemnitor be obligated to indemnify any Beneficiary for consequential, special or punitive damages, or for economic loss 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Addressing Mismatches**	~~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~~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.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 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.
~~**Conditions Precedent to Closing:**~~**Documentation**	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.~~[2]
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Servicing Guarantor ~~is~~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 ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Servicing Guarantor or the Indemnitor, in connection with the

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

	~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

Document comparison by Workshare Compare on Friday, June 23, 2017 4:12:42 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/1
Description	TOR_2528-#23148306-v1-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/8
Description	TOR_2528-#23148306-v8-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	110
Deletions	87
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	197

From: Gadi Mayman
To: Scott Thompson (CAB)
Cc: Tim Schuurman (MOF); Ronald Kwan; Ken Kandeepan; Mike Manning
Subject: FW: EXTERNAL - Provincial Guarantee
Date: Monday, February 27, 2017 1:03:37 PM

Here's Ken's response, and my follow-up question to him as to why we can't do the borrowing to reduce the cost to ratepayers.

From: Gadi Mayman
Sent: Monday, February 27, 2017 1:02 PM
To: 'HARTWICK Ken -FINANCE' <ken.hartwick@opg.com>
Cc: 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>; MAUTI John -FIN & C CTRL <john.mauti@opg.com>
Subject: RE: EXTERNAL - Provincial Guarantee

Thanks, Ken. The challenge that many on our side of the table have, including me, is that given the interest rate sensitivity of this program, we'd like to squeeze whatever excess costs we can out of it, and if we're guaranteeing the debt anyhow, why pay third party investors a premium?

I realize that the guarantee is, for now, only related to legislative changes, but that's the most likely, by far, potential point of failure of this structure, so I'd suggest that the risk transfer to third party investors is pretty limited if we have this guarantee. That being the case, I'm having trouble seeing why direct borrowing on on-lending by the Province would be treated differently from an accounting perspective than this guarantee would be, and am still wondering why we wouldn't be able to do the borrowing on your behalf?

From: HARTWICK Ken -FINANCE [mailto:ken.hartwick@opg.com]
Sent: Monday, February 27, 2017 12:49 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>; MAUTI John -FIN & C CTRL <john.mauti@opg.com>
Subject: RE: EXTERNAL - Provincial Guarantee

We are looking at this now but I do not think we get a different accounting inclusion. The guarantee would not be related to performance of the trust but rather a material legislative change that would allow the trust to collect the GA and fulfil its obligations. We are looking at this now but believe the accounting works with this as one element of a 14 element test and focused on a specific change. We may issue over the paper for 130 and then need to confirm my view.

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: Monday, February 27, 2017 12:45 PM
To: HARTWICK Ken -FINANCE
Cc: 'cindy.veinot@ontario.ca'
Subject: EXTERNAL – Provincial Guarantee

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Hi Ken, we all had to rush off to our next meetings following our meeting this morning, so we didn't get a chance to have a discussion about why a Provincial guarantee of all of OPG's debt related to the trust isn't a problem for the accounting treatment that we'd need to get to in order to make the GA smoothing plan work, while direct borrowing and on-lending from the Province would be, if it's greater than 49% of the total borrowing (actually 44% in your current model).

From a capital markets, investor and rating agency perspective, the guarantee is extremely likely to be lumped in with the rest of the Province's debt, and the guaranteed debt would be considered just as much of a provincial obligation as the rest of our debt, particularly in this case where the reason that the guarantee is needed is because investors will demand it in order to protect themselves from legislative amendments by a future government. For that reason, it could be hard to justify, from a capital markets or cost perspective, having OPG borrowing in its own name with a government guarantee, so is it possible to revisit the potential accounting treatment and determine whether, now that we've effectively moved to a guaranteed structure, we could just have the Province, through the OFA or OEFC, do all of the borrowing and on-lend to OPG? Is this something that you'd been planning to address in the accounting material that you're sending over today?

Thanks,
Gadi

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Inc.

From:	Ronald Kwan
To:	John Kim; Bruno Amara
Subject:	FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date:	Wednesday, July 05, 2017 5:15:33 PM

Hi,

Please review.

Ron

From: Gadi Mayman
Sent: July-05-17 15:17
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

---

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, July 05, 2017 2:44 PM
To: Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi,

Please see the following comments from OPG / Torys on the guarantees.

I wonder if we are now at a point we should suggest sitting down with OPG on this perhaps early next week.

Thanks,
Scott

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: June 30, 2017 3:12 PM

To: Nelms, Scott (MOF)
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; HAHN PARKER Janet -TREASURY
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Scott:

Further to our discussion on the outstanding issues, please find below the comments from the Dealers on the "Markup" of the Provincial Protection and Assurance term sheet.
As noted below, the next step should be to get the appropriate parties from the Province to sit down with the dealers and OPG to go over the points and agree on a basis to move forward.
We should try to do that sometime next week. Let us know what times work on the Province side and we will coordinate with the Dealers & counsels.

John

From: Mansoori, Nina [mailto:nmansoori@torys.com]
Sent: Friday, June 30, 2017 12:24 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
Subject: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

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John/Les/Ken,

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Many thanks,
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From:	Gadi Mayman
To:	Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Carlos Yep; Mike Manning
Cc:	Anna Strathy; Ken Kandeepan; Ronald Kwan
Subject:	FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date:	Wednesday, July 05, 2017 3:17:04 PM

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, July 05, 2017 2:44 PM
To: Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>
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Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
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TORYS LLP[torys.com]

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are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

From:	Ronald Kwan
To:	John Kim
Subject:	FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date:	Thursday, July 06, 2017 5:14:08 PM

From: Ken Kandeepan
Sent: July-06-17 17:13
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Subject: RE: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi Scott

I had to leave a little early for the tele conference, I believe that Gadi did make this point, however, we just want to reiterate it. We are not in favour of the acceleration option residing in the hands of the bondholders. As a matter of fact removing it entirely is acceptable, if it has to stay the ability to exercise has to be limited to the Province.

Assuming the option remains at the discretion of the Province, the 1% premium should be removed. Hopefully you can pass this on to Stephen for inclusion in any feedback to OPG. If there is no feedback intended at this time and the decision is to meet with OPG on the indemnity, we can make these points at the meeting.

Thanks

Ken k

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, July 05, 2017 2:44 PM
To: Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>
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From: Ronald Kwan
To: John Kim
Cc: Gavin He
Subject: FW: EXTERNAL – Provincial Guarantee for Fair Hydro Program
Date: Tuesday, April 18, 2017 11:26:44 AM

Hi,

Please take a look. Comments?

Ron

-----Original Message-----
From: Gadi Mayman
Sent: April-18-17 11:13 AM
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: Re: EXTERNAL – Provincial Guarantee for Fair Hydro Program

Thanks. Has TD seen this, or commented on it? The make whole provision, rather than just moving the outstanding bonds up to being provincial debt could be extremely expensive if the guarantee is triggered and exercised.

I assume the challenge to the rating is that we're not AAA, so the debt would be downgraded to our level, but this shows the flaw in the ratings methodology, because why would you want a guarantee from someone who is supposedly less credit worthy? This is definitely, in my mind, worth pushing back on.

Regards,
Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Tuesday, April 18, 2017 11:04 AM
To: Gadi Mayman
Subject: FW: EXTERNAL – Provincial Guarantee for Fair Hydro Program

Fyi

-----Original Message-----

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]

Sent: April 16, 2017 6:28 PM

To: Hume, Steen (ENERGY); Nelms, Scott (MOF)

Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); WONG Leslie -LAWDIV

Subject: Fw: EXTERNAL – Provincial Guarantee for Fair Hydro Program

Steen/Scott

Here is the initial view of the dealers on their ask. We can discuss further tomorrow. Maybe more efficient that we discuss prior to the group meeting in the afternoon

John

From: Persaud, Donnie - Debt Capital Markets <Donnie.Persaud@cibc.com>

Sent: Thursday, April 13, 2017 9:15 PM

To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV

Cc: 'Sebastiano, Rocco'; 'Mullen, Max M.'; Maciel, Andrew; 'david.dalbello@rbccm.com'; 'Smith, Elliot'; 'Ms Victoria M. Turnbull'; Persaud, Donnie - Debt Capital Markets; 'Benaiah, Ian'; 'Fullerton, Rick'; Adalja, Sunil; Alvi, Shariq; Peric, Christiane

Subject: EXTERNAL – Provincial Guarantee for Fair Hydro Program

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Hey John, Ken,

Further to our discussion earlier today, please see the note below which outlines our collective views on the Provincial guarantee that would be required for the Fair Hydro Program. Happy to discuss further.

There are two types of “guarantees” that we are looking for from the Province in relation to this program on the basis that any debt issued under the Fair Hydro Program will be AAA-rated. In addition, the following is based on the understanding that the transition charges collected from prescribed consumers will begin upon the commencement of the program and will not be subject to any cap or restrictions.

The legislation must include a specific reference to the Province being required to provide a guarantee on debt repayment and servicing in certain circumstances.

The first is “Springing Guarantee”, which would be via a legal agreement put in place when establishing the program and would require the Province to step in and assume responsibility for paying all amounts that are or become due in respect of (i) any of the outstanding funding obligations; (ii) the operation and maintenance of the financing entity; and (iii) any other amounts due in relation to the program that have not yet been paid (collectively, the “Fair Hydro Program Costs”). This Springing Guarantee would kick in should any of the following happen:

(1) There is any change in the legislation or regulations that is, or could be, adverse to finance entity noteholders or the legislation is determined to be ultra vires. In this situation, the Springing Guarantee would require the immediate repayment of all Fair Hydro Program Costs (including any makewhole prepayment obligations).

(2) There is a market disruption (i.e. there is a period of time when capital markets term funding is not available to take out the warehouse facilities (bank facility or ABCP)). In this situation, either (i) we start to charge ratepayers for principal recovery via transition charges; or (ii) the Province must be responsible for the immediate repayment of those warehouse facilities.

The period of time that must lapse before this Springing Guarantee becomes applicable with respect to the warehouse facilities can be set to accommodate a short term dislocation in the term funding market (6-18 months). We would note that depending on the size of the warehouse facility, if there is no term takeout for an extended period of time, it is likely that the warehouse facilities will also quickly reach their credit limits and the province would likely have to fund any future shortfalls if they wished to continue the program.

To the extent that the Springing Guarantee does not require the Province to make the repayment contemplated under scenario (1), but simply requires the Province to repay the debt in accordance with its original repayment terms, this may adversely impact the rating of the Fair Hydro Program.

The second type of guarantee we are looking for from the province is a performance guarantee. This is not a credit guarantee. The performance guarantee would require the Province to stand behind certain obligations of the Servicer (initially IESO) in the program. This performance guarantee would be included as part of the Securitization documents for the program. It would, amongst other things, require the province to stand behind (including taking responsibility for helping remedy any breaches in) the representations, warranties, or covenants made by the servicer. It would also require the province to ensure that the servicer performs its servicing activities as set out in the securitization documents and if it does not, put in place an alternative servicer who would perform those servicing activities. The performance guarantee would also include standing behind any indemnities that may be owing by the servicer.

Donnie Persaud | Executive Director | Debt Capital Markets | CIBC Capital Markets | CIBC World Markets Inc.

161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 |
donnie.persaud@cibc.com<mailto:donnie.persaud@cibc.com>

[cid:image001.jpg@01D2B497.94C53820]

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From:	Mike Manning
To:	Ronald Kwan
Cc:	James Devine
Subject:	FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Wednesday, May 17, 2017 10:01:04 AM
Attachments:	Term Sheet - Provincial Support Agreement - May 12.docx Compare_Term Sheet - Provincial Support Agreement (2) - Term Sheet - Pro....pdf

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Not sure if you have seen the newest version. We are setting up a meeting to discuss further.

Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, May 15, 2017 2:01 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; PRESTON Stuart -TREASURY <stuart.preston@opg.com>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Mike:
Attached is the Dealers latest markup for the Provincial Support Agreement. Their changes center primarily with the Market Disruption.
We can arrange a call to discuss the dealer position.
John

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, May 12, 2017 6:10 PM
To: WONG Leslie -LAWDIV; LEE John -TREASURY; RYFA Ken -TREASURY; Hill, Krista; Ramchandani, Rima; mfeldman@torys.com
Cc: Peric, Christiane; Persaud, Donnie - Debt Capital Markets; Fullerton, Rick; Innes, Michael; Smith, Elliot; Maciel, Andrew; Adalja, Sunil; Alvi, Shariq; "Benaiah, Ian' (ian.benaiah@rbccm.com)'; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)'; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)'; Milligan, Peter; 'Murray, Tim (tim.murray@rbccm.com)'; Khanna, Raj - Corporate Banking; 'Niehaus, Katrina'; 'Mullen, Max M.'; 'Collins, Patrick J (Patrick.Collins@gs.com)'; 'Delaney, Brian (Brian.Delaney@gs.com)'
Subject: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
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Please find enclosed a revised draft of the Term Sheet for the Provincial Support Agreement.
Regards, Rocco

From: Persaud, Donnie - Debt Capital Markets [mailto:Donnie.Persaud@cibc.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Sebastiano, Rocco <RSebastiano@osler.com>; Fullerton, Rick <RFullerton@osler.com>; Innes, Michael <MInnes@osler.com>; Smith, Elliot <ESmith@osler.com>; Maciel, Andrew <Andrew.Maciel@cibc.com>; Adalja, Sunil <Sunil.Adalja@cibc.com>; Alvi, Shariq

<Shariq.Alvi@cibc.com>; "Benaiah, Ian' (ian.benaiah@rbccm.com)' <ian.benaiah@rbccm.com>; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)' <vickie.turnbull@rbccm.com>; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)' <david.dalbello@rbccm.com>; Milligan, Peter <PMilligan@osler.com>; 'Murray, Tim (tim.murray@rbccm.com)' <tim.murray@rbccm.com>; Khanna, Raj - Corporate Banking <Raj.Khanna@CIBC.ca>; 'Niehaus, Katrina' <Katrina.Niehaus@gs.com>; 'Mullen, Max M.' <Max.Mullen@gs.com>; 'Collins, Patrick J (Patrick.Collins@gs.com)' <Patrick.Collins@gs.com>; 'Delaney, Brian (Brian.Delaney@gs.com)' <Brian.Delaney@gs.com>
Cc: Peric, Christiane <Christiane.Peric@cibc.com>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Please see attached.
Donnie Persaud | Executive Director | Debt Capital Markets | CIBC Capital Markets | CIBC World Markets Inc.
161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 | donnie.persaud@cibc.com

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From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Tuesday, April 25, 2017 4:54 PM
To: Persaud, Donnie - Debt Capital Markets
Cc: WONG Leslie -LAWDIV; PRESTON Stuart -TREASURY; RYFA Ken -TREASURY; LIU Sheen -TREASURY
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Donnie:
Further to our discussion last week, please find attached the draft term sheet relating to the Provincial Support. In this draft the Province will assume the obligations of the debt under certain conditions. This draft document reflects the Province initial thoughts. Stu will coordinate this agreement from our end.
John

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Provincial Support Agreement Term Sheet

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.
Beneficiaries:	The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**") on behalf of itself and all other persons 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity.
Term:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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.

[1] 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.

Performance Guarantee:	Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both 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 Beneficiaries for any losses that result.
Payment Guarantee Event:	A Payment Guarantee Event will occur if: (A) the Legislative Assembly of Ontario repeals the Act; or (B) 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) 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 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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 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.[2]
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

[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

Provincial Support Agreement Term Sheet~~—~~

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.
Beneficiaries:	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:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[2]1 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.~~

[2]1 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,

	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 ha~~s~~ve 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.~~5~~[2]
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

~~5~~[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

From:	Ronald Kwan
To:	John Kim
Cc:	Gavin He
Subject:	FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Wednesday, May 17, 2017 1:51:52 PM
Attachments:	Term Sheet - Provincial Support Agreement - May 12.docx Compare_Term Sheet - Provincial Support Agreement (2) - Term Sheet - Pro....pdf

Hi John,

Please review.

Ron

From: Mike Manning
Sent: May-17-17 10:01
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Not sure if you have seen the newest version. We are setting up a meeting to discuss further.

Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, May 15, 2017 2:01 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; PRESTON Stuart -TREASURY <stuart.preston@opg.com>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Mike:
Attached is the Dealers latest markup for the Provincial Support Agreement. Their changes center primarily with the Market Disruption.
We can arrange a call to discuss the dealer position.
John

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, May 12, 2017 6:10 PM
To: WONG Leslie -LAWDIV; LEE John -TREASURY; RYFA Ken -TREASURY; Hill, Krista; Ramchandani, Rima; mfeldman@torys.com
Cc: Peric, Christiane; Persaud, Donnie - Debt Capital Markets; Fullerton, Rick; Innes, Michael; Smith, Elliot; Maciel, Andrew; Adalja, Sunil; Alvi, Shariq; "Benaiah, Ian' (ian.benaiah@rbccm.com)'; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)'; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)'; Milligan, Peter; 'Murray, Tim (tim.murray@rbccm.com)'; Khanna, Raj - Corporate Banking; 'Niehaus, Katrina'; 'Mullen,

Max M.'; 'Collins, Patrick J (Patrick.Collins@gs.com)'; 'Delaney, Brian (Brian.Delaney@gs.com)'
Subject: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Please find enclosed a revised draft of the Term Sheet for the Provincial Support Agreement. Regards, Rocco

From: Persaud, Donnie - Debt Capital Markets [mailto:Donnie.Persaud@cibc.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Sebastiano, Rocco <RSebastiano@osler.com>; Fullerton, Rick <RFullerton@osler.com>; Innes, Michael <MInnes@osler.com>; Smith, Elliot <ESmith@osler.com>; Maciel, Andrew <Andrew.Maciel@cibc.com>; Adalja, Sunil <Sunil.Adalja@cibc.com>; Alvi, Shariq <Shariq.Alvi@cibc.com>; "Benaiah, Ian' (ian.benaiah@rbccm.com)' <ian.benaiah@rbccm.com>; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)' <vickie.turnbull@rbccm.com>; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)' <david.dalbello@rbccm.com>; Milligan, Peter <PMilligan@osler.com>; 'Murray, Tim (tim.murray@rbccm.com)' <tim.murray@rbccm.com>; Khanna, Raj - Corporate Banking <Raj.Khanna@CIBC.ca>; 'Niehaus, Katrina' <Katrina.Niehaus@gs.com>; 'Mullen, Max M.' <Max.Mullen@gs.com>; 'Collins, Patrick J (Patrick.Collins@gs.com)' <Patrick.Collins@gs.com>; 'Delaney, Brian (Brian.Delaney@gs.com)' <Brian.Delaney@gs.com>
Cc: Peric, Christiane <Christiane.Peric@cibc.com>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Please see attached.
Donnie Persaud | Executive Director | Debt Capital Markets | CIBC Capital Markets | CIBC World Markets Inc.
161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 | donnie.persaud@cibc.com

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From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Tuesday, April 25, 2017 4:54 PM
To: Persaud, Donnie - Debt Capital Markets
Cc: WONG Leslie -LAWDIV; PRESTON Stuart -TREASURY; RYFA Ken -TREASURY; LIU Sheen -TREASURY
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Donnie:
Further to our discussion last week, please find attached the draft term sheet relating to the Provincial Support. In this draft the Province will assume the obligations of the debt under certain conditions. This draft document reflects the Province initial thoughts. Stu will coordinate this agreement from our end.
John

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Provincial Support Agreement Term Sheet

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.
Beneficiaries:	The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**") on behalf of itself and all other persons 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity.
Term:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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.

[1] 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.

Performance Guarantee:	Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both 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 Beneficiaries for any losses that result.
Payment Guarantee Event:	A Payment Guarantee Event will occur if: (A) the Legislative Assembly of Ontario repeals the Act; or (B) 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) 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 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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 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.[2]
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

[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

Provincial Support Agreement Term Sheet~~—~~

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.
Beneficiaries:	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:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[2]1 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.~~

[2]1 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,

	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 ha~~s~~ve 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.
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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

~~5~~[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

From:	Ronald Kwan
To:	John Kim
Subject:	FW: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:02:47 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017 Markup.docx

Hi John,

FYI.

Ron

From: Ronald Kwan
Sent: August-23-17 13:02
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan

Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)"

<Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an

alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair ~~H~~hydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [AS1]: Matt, as I understand it, the Province has agreed to take over fees of service providers, rating agencies, etc. Please ask Ron or Malle if this needs to be more explicit in the summary of request.

Commented [MOF LSB2]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK3R2]: Need to confirm direction.

Commented [RK4]: Wouldn't it be better to write out the name of the Act in full, at least the first time?

Commented [MOF LSB5]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [AS6R5]: Matt, this is a good question and you may want to raise it with Anthony to raise with TBS. As I understand it, this is coming to TB/MBC on the recommendation of TBS, given the size of the guarantee and its policy implications for the FHP. TB/MBC approval may not be needed, but TBS felt it important for the Board to be aware. Wording may need to be adjusted.

Commented [AS7R5]: Anthony mentioned TBS is still reviewing the draft submission, but that TB could authorize (instead of Approve). (Matt).

Commented [MOF LSB8]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK9R8]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [AS10R9]: You may want to flag this comment for Keley Katona - has Energy landed on a maximum liability?

Commented [MOF LSB11]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK12R11]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS13R11]: Analysis is still underway by energy, working with OPG (Matt).

guarantee.

Commented [MOF LSB14]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

Commented [AS15R14]: I'm not sure I understand this. I would go back to Malle for explanation. Ultimately, we will need Legal to provide advice on how the s. 28 would work.

Commented [AS16R14]: Followed up with Malle, agreed it should be TBD for now as LSB should provide further advice. (Matt)

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25~~%~~%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to ~~create a regulatory asset~~ establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial SevicesServices Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of

Commented [MOF LSB17]: This is the short title of the Act.

Commented [MOF LSB18]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [AS19R18]: Check with Ron.

Commented [RK20R18]: I'd see if Energy can share its description on this.

Commented [MOF LSB21]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB22]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [AS23R22]: Not sure we need to incorporate this suggestion. Malle can provide line edits on a subsequent draft if she thinks it requires more specificity. Check with Ron.

the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability willwouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt willwouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB24]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB25]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [AS26R25]: Check with Ron, but I think this reflects that Legal is only getting up to speed now on the guarantee discussions over the last month. But she's right that we'll need to be consistent in how we refer to the guarantee (it is broader than the debt payments).

Commented [MOF LSB27]: OPCD to review

Commented [AS28R27]: Recommend sending the draft submission (v. 3) to Sarah Hosick (copy Anthony) and asking if Mark Donaldson can review the submission and provide comment. Cindy likely hasn't had time to review because she's busy with Public Accounts.

Commented [AS29R27]: I've followed up but still waiting for a response(Matt).

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

Commented [MOF LSB30]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK31R30]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck--- but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS32R30]: This issue came up at the term sheet meeting, still TBD (Matt).

Commented [MOF LSB33]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK34R33]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB35]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

Commented [AS36R35]: Check with Ron.

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	Ronald Kwan
Subject:	FW: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 2:38:36 PM
Attachments:	23148306-v10-Term Sheet - Provincial Support Agreement - May 12.DOCX 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.PDF

Hi Ron,

I can coordinate a meeting on this a you'd requested.

As for attendees, I assume I should include everyone on the distribution list below? And as far as location goes, would we typically host this meeting at the OFA?

Thanks,
Matt on behalf of Anna Strathy

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Monday, August 21, 2017 2:26 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

Please find attached comments on the term sheet prepared by Steve Ashbourne, Province's external counsel, for our review and consideration. These comments are prepared for the purposes of internal discussion at the proposed meeting of Provincial staff and should not with others outside the Province.

Thank you.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY); Elcombe, James (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

Perhaps Matt (on behalf of Anna) could arrange a time in the next day or two. Would Steve Ashbourne have provided written comments that could be circulated in advance.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 12:36
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

We have received comments back on the term sheet from Steve Ashbourne, the Province's external counsel, and think it would be helpful to have an internal Provincial meeting to review the comments on the draft. On the legal side, it might be helpful to get some more insight into how the proposed guarantee and warehouse facility are to work from a business perspective. In addition, we are awaiting further draft documents that set the context and describe what is to be guaranteed as I understand that Torys (OPG's counsel) has been working on these.

It would be helpful to coordinate such a meeting soon with the appropriate Provincial representatives.

Thanks.

Malle

From: Hanslep, Malle (MOF)
Sent: August 17, 2017 9:23 AM
To: Kandeepan, Ken (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

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 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.*

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]
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

[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?

	(including by way of any order by the Ontario Energy Board)][4], that adversely affects 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; (C) the Legislative Assembly of Ontario directly or indirectly amending the Guarantee or any of the financing transaction agreements without the agreement of the indenture trustee; (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 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; 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 each case in any way that adversely affects 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.][6]

[4] Too broad and unlimited.

[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:	The indenture trustee will have the right to require that, upon the occurrence of a Guarantee Activation Event, the Guarantor 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 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]

[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"?

Approval Requirements:	A Guarantee will become effective in respect of a Financing Entity's obligations (including any modification) only after the Guarantor has confirmed in 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 of the Guarantee on a basis consistent with this term sheet, will annex the applicable forms of program and series documents under which obligations of the Financing Entity may arise (e.g., form of trust indenture and series supplemental indenture). As long as the documents under which an obligation arises are and remain consistent in all material respects with such agreed upon 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 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 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

[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?

Governing Law:	Province of Ontario

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.*
<u>Commingling Risk (applies to Warehouse as well as any Term transactions)</u>

[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.

Commingling Risk[13] 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)[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 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]

[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.

[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.

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	
Commitment Period for Warehouse[20]:	Expected to be 12-24 months.[21]
Takeout for Warehouse:	Expected to be every 3-6 months.
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[23] 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.

[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.

[22] These should be spelled out in detail in the term sheet, given the economic consequences to the structure.

[23] 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.

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, on behalf of the Province.

[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.

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.*

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]
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~~

[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.

~~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;

(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

(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~~

~~[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?

	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

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:**	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.

	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	
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 lesser 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

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/9
Description	TOR_2528-#23148306-v9-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/10
Description	TOR_2528-#23148306-v10-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	98
Deletions	31
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	129

From: Ronald Kwan
To: Malle Hanslep (MOF)
Cc: Ken Kandeepan; John Kim
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 6:10:36 PM

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. *** _____

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

_____

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From: John Kim
To: Ronald Kwan
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides
Date: Thursday, August 17, 2017 2:13:17 PM

Hi Ron,

What Malle is looking for is essentially a set of legal documents that set out what the bond or debt instruments to be issued by the Financing Entity would look like.

And Energy Legal is not in the know about the matter and it would require OPG to provide such documents. Essentially, either John Lee or John Mauti would then be the potential contacts. If to go through John Lee, I can ask Mike Manning to follow up. If the other option, then we can do it or have GBED follow up. I am okay either way.

Thanks,

John

From: John Kim
Sent: Thursday, August 17, 2017 12:04 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I will follow up on the request below.

Thanks,

John

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>

Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
> - Concept of "materiality" has been deleted for (B) and (D).
> - A concept of "any other discriminatory action including OEB Orders has been introduced.
> - The Guarantee wording includes the word "assume" as opposed to just "pay".
> - Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
> - Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
> - Also the second portion called Warehousing Takeout Risk and Servicing

– it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF)

<Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the

more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested,

however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]

Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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From: John Kim
To: Ronald Kwan
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides
Date: Thursday, August 17, 2017 11:58:31 AM

Would you mind if I work to get some of the info that Malle is requesting?

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.

- Concept of “materiality” has been deleted for (B) and (D).
- A concept of “any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word “assume” as opposed to just “pay”.
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing

note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet

and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
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Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
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To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
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From: Carlos Yep
To: John Kim; Ronald Kwan
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides
Date: Tuesday, August 15, 2017 9:19:23 AM
Attachments: Term Sheet - Provincial Support Agreement - 08-14-2017.docx
Fair Hydro Plan - Guarantee and Other Items v2.pptx

---

fyi

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken - TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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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.*

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; (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; (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; (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

	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.]**
Guarantee:	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.*	
<u>Commingling Risk (applies to Warehouse as well as any Term transactions)</u>	
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

Change in Law Risk

- Holders of Fair Hydro Plan debt could be negatively impacted by:
  - Changes to legislation or other discriminatory action by the Province as no government can limit the ability of future governments to amend or enact legislation or take other actions as it may deem appropriate
  - Court decision that the Fair Hydro Plan does not have the authority to levy the charge to consumers or declares any funding obligations to be invalid or unenforceable
  - Changes to the organization, structure or operations of the IESO or the electricity market
- Debt is not financeable without protection for these risks
- Risk is addressed through contractual guarantee that would be triggered upon the occurrence of specified events
- If guarantee is triggered there would not be an acceleration of payment
- If guarantee is triggered the Province would step in to service the obligations of the financing entity
- Guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Risks Not Covered by Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
  - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk is addressed through an escalation of the pricing of such short term debt:
  - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends
  - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

LDC Commingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity. For any LDC which is not rated or non-investment grade rated by each of the rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless other credit mitigants are established
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's (Moody's only rates Hydro One)
  - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk is addressed through providing the financing entity with a letter of credit:
  - Amount of letter of credit is approximately one to two month's estimated collections from all unrated or non-investment grade LDCs
  - Letter of credit to be provided by the IESO on behalf of the LDCs
  - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a commingling reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

From:	Ken Kandeepan
To:	Ronald Kwan; Gadi Mayman; John Kim
Cc:	Anna Strathy
Subject:	FW: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 14, 2017 7:46:06 PM
Attachments:	Term Sheet - Provincial Support Agreement - 08-14-2017.docx Fair Hydro Plan - Guarantee and Other Items v2.pptx

---

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

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THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

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.*

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; (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; (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; (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

	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.]**
Guarantee:	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.*	
<u>Commingling Risk (applies to Warehouse as well as any Term transactions)</u>	
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

Change in Law Risk

- Holders of Fair Hydro Plan debt could be negatively impacted by:
  - Changes to legislation or other discriminatory action by the Province as no government can limit the ability of future governments to amend or enact legislation or take other actions as it may deem appropriate
  - Court decision that the Fair Hydro Plan does not have the authority to levy the charge to consumers or declares any funding obligations to be invalid or unenforceable
  - Changes to the organization, structure or operations of the IESO or the electricity market
- Debt is not financeable without protection for these risks
- Risk is addressed through contractual guarantee that would be triggered upon the occurrence of specified events
- If guarantee is triggered there would not be an acceleration of payment
- If guarantee is triggered the Province would step in to service the obligations of the financing entity
- Guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Risks Not Covered by Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
  - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk is addressed through an escalation of the pricing of such short term debt:
  - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends
  - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

LDC Commingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity. For any LDC which is not rated or non-investment grade rated by each of the rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless other credit mitigants are established
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's (Moody's only rates Hydro One)
  - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk is addressed through providing the financing entity with a letter of credit:
  - Amount of letter of credit is approximately one to two month's estimated collections from all unrated or non-investment grade LDCs
  - Letter of credit to be provided by the IESO on behalf of the LDCs
  - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a commingling reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

From:	Ronald Kwan
To:	John Kim
Subject:	FW: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:27:26 PM
Attachments:	TB20 Submission_Provincial Gurantee_V3 MOF LSB August 23rd post Malle comments.docx

Hi,

Please review.

Ron

From: Anna Strathy
Sent: August-23-17 13:23
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was

unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18

To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

From: "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
Date: August 17, 2017 at 9:22:58 AM EDT
To: "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss

the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not

asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>

Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair H~~h~~ydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [AS1]: Matt, as I understand it, the Province has agreed to take over fees of service providers, rating agencies, etc. Please ask Ron or Malle if this needs to be more explicit in the summary of request.

Commented [MOF LSB2]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK3]: Need to confirm direction.

Commented [RK4]: Wouldn't it be better to write out the name of the Act in full, at least the first time?

Commented [MOF LSB5]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [AS6]: Matt, this is a good question and you may want to raise it with Anthony to raise with TBS. As I understand it, this is coming to TB/MBC on the recommendation of TBS, given the size of the guarantee and its policy implications for the FHP. TB/MBC approval may not be needed, but TBS felt it important for the Board to be aware. Wording may need to be adjusted.

Commented [AS7]: Anthony mentioned TBS is still reviewing the draft submission, but that TB could authorize (instead of Approve). (Matt).

Commented [MOF LSB8]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK9]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [AS10]: You may want to flag this comment for Keley Katona - has Energy landed on a maximum liability?

Commented [MOF LSB11]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK12]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS13]: Analysis is still underway by energy, working with OPG (Matt).

guarantee.

Commented [MOF LSB14]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

Commented [AS15]: I'm not sure I understand this. I would go back to Malle for explanation. Ultimately, we will need Legal to provide advice on how the s. 28 would work.

Commented [AS16]: Followed up with Malle, agreed it should be TBD for now as LSB should provide further advice. (Matt)

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25~~%~~%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to ~~create a regulatory asset~~ establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial SevicesServices Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Commented [MOF LSB17]: This is the short title of the Act.

Commented [MOF LSB18]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [AS19]: Check with Ron.

Commented [RK20]: I'd see if Energy can share its description on this.

Commented [MOF LSB21]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB22]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [AS23]: Not sure we need to incorporate this suggestion. Malle can provide line edits on a subsequent draft if she thinks it requires more specificity. Check with Ron.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability willwouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt willwouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt

Commented [MOF LSB24]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB25]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [AS26]: Check with Ron, but I think this reflects that Legal is only getting up to speed now on the guarantee discussions over the last month. But she's right that we'll need to be consistent in how we refer to the guarantee (it is broader than the debt payments).

Commented [MOF LSB27]: OPCD to review

Commented [AS28]: Recommend sending the draft submission (v. 3) to Sarah Hosick (copy Anthony) and asking if Mark Donaldson can review the submission and provide comment. Cindy likely hasn't had time to review because she's busy with Public Accounts.

Commented [AS29]: I've followed up but still waiting for a response(Matt).

(IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

Commented [MOF LSB30]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK31]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS32]: This issue came up at the term sheet meeting, still TBD (Matt).

Commented [MOF LSB33]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK34]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB35]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

Commented [AS36]: Check with Ron.

APPENDIX

[Insert Final Term Sheet]

From: Ronald Kwan
To: John Kim
Subject: FW: FHP Support Agreement OIC Draft
Date: Thursday, September 07, 2017 5:54:58 PM
Attachments: OIC - FHP S.5 Draft September 7.doc

-----Original Message-----
From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: September-07-17 17:53
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Subject: FHP Support Agreement OIC Draft

Please find attached, for your review and comment, a draft OIC authorizing the Minister of Finance and the Minister of Energy to give a guarantee/indemnity under the Fair Hydro Plan Act.

This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON
M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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WHEREAS 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 to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest as described under the Act;

AND WHEREAS pursuant to subsection 22(2) of the Act, Ontario Power Generation Inc. as financial services manager, may establish or cause to be established one or more financing entities (a "Financing Entity") that may incur funding obligations in connection with investment interests**;**

AND WHEREAS it is considered desirable to authorize the Minister of Energy and the Minister of Finance to agree to guarantee or indemnify debts, obligations, securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity;

NOW THEREFORE:

1. Pursuant to subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017*, the Minister of Energy and the Minister of Finance, acting together on behalf of Ontario, are authorized to enter into one or more agreements to guarantee or indemnify the debts, obligations securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity. **[NTD: This mirrors the wording of the section so doesn't scope the guarantee in any way except by relating it to a Financing Entity.]**

[Should the OIC narrow the scope of the guarantee? principal/interest/penalties/costs/ expenses/other obligations such as fees to service providers and payments under derivatives agreements? Some more specificity may be desirable here – usually the Province guarantees payment of principal and interest only, not penalties or other costs on debt securities and loans. We should consider whether the OIC needs to specify if guaranteeing payments on other agreements other than debt securities issued or loans taken out, understanding that a broader form of guarantee may be desired in this case. Fees payable to service providers and derivatives counterparties would generally be established under separate agreements although they are referenced in the waterfall provisions in the master trust indenture.]

2. The Minister of Energy and the Minister of Finance, acting together on behalf of Ontario are authorized to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee and indemnity authorized under paragraph 1 of this Order, **[provided that**

the maximum aggregate [principal amount] guaranteed/[maximum liability] shall not exceed $XX.] [NTD: Need to determine whether maximum amount will be inserted here or the two Ministers will determine maximum liability in guarantee agreement].

3. NTD: SHOULD LGIC SPECIFY ANY OTHER TERMS AND CONDITIONS IN THE ORDER OR SHOULD ALL OTHER TERMS AND CONDITIONS BE SET BY THE TWO MINISTERS?

Recommended _____ Concurred _____
Minister of Energy/Minister of Finance Chair of Cabinet

Approved
and Ordered _____ _____
Date Lieutenant Governor

From:	Ronald Kwan
To:	John Kim
Subject:	FW: FHP TB submission
Date:	Friday, August 25, 2017 5:01:22 PM
Attachments:	TB20 Submission_Provincial Gurantee_V3 MOF LSB and OFA updates.docx

Hi John,

FYI.

Ron

From: Anna Strathy
Sent: August-25-17 16:58
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: FHP TB submission

Yes, here is the "clean" updated copy, although there are still some margin comments relating to issues that are TBD.

I'll continue to encourage the relevant parties to resolve those next week where we can.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 4:06 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: FHP TB submission

And would you send me the latest clean copy.

Thanks,
Ron

From: Anna Strathy
Sent: August-25-17 16:04
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Ok, thanks Ron.

I'll send it to Anthony and hopefully on Monday to the wider group (I'll cc Gadi when it goes out to the wider group).

Enjoy your weekend.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 3:58 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Hi Matt,

I didn`t review any more following the consolidated set of markups you sent me, with CEFD edits.

I think it`s fine to send that out to the group for further feedback.

As for next week`s meeting, I`d be fine if you attend, unless John can.

Ron

From: Anna Strathy
Sent: August-25-17 15:34
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FHP TB submission

Hi Ron,

I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,

Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
> - Concept of "materiality" has been deleted for (B) and (D).
> - A concept of "any other discriminatory action including OEB Orders has been introduced.
> - The Guarantee wording includes the word "assume" as opposed to just "pay".
> - Also, the guarantee has reverted to some of the very general wording

that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott’s group is the business contact and I believe that

there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th

which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a guarantee, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

3. BACKGROUND:

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2]: Need to confirm direction.

Commented [RK3]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [RK4]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amount determination, or cumulative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS5]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

Commented [AS6]: TBD if both Ministers will sign the recommendation on the OIC (Matt).

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account. The Act provides for the IESO to sell the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the Act, Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

Commented [MOF LSB7]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [RK8]: I'd see if Energy can share its description on this.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair

Commented [MOF LSB9]: The wording in this section will need more work once we have reviewed the current term sheet.

Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB10]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [MOF LSB11]: OPCD to review

Commented [MOF LSB12]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK13]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS14]: This issue came up at the term sheet meeting, still TBD (Matt).

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB15]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK16]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB17]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From:	John Kim
To:	Ronald Kwan
Subject:	FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt
Date:	Friday, September 08, 2017 12:32:29 PM
Attachments:	Memorandum on Acceleration Proposal.docx

Fyi, just noticed you weren't copied.

From: Mike Manning
Sent: Friday, September 08, 2017 11:03 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Hi Guys:
Not sure if you have seen this but passing it along. We may want to have this option, but running out of time.

Mike

From: WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
Sent: Thursday, September 07, 2017 4:20 PM
To: James Rehob (ENERGY) <James.Rehob@ontario.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Dear James,

During the discussions of the Provincial guarantee at a recent Thursday rate mitigation meeting, OPG raised the issue of potential acceleration of financing entity debt where the guarantee is not applicable. That would occur if there is an event of default (e.g. if the trust is not able to pay/service the debt) for a reason that doesn't trigger the guarantee (e.g. for a reason other than a change of the legislation).

When there is an acceleration, all of the principal amount becomes due and a large payment would need to be made by the financing entity to bondholders. If the acceleration occurs after the moratorium period, the amount payable to bondholders would be put through the Clean Energy Adjustment to specified consumers. That could result in a significant increase in consumer bills in a short period of time.

We understand that the Province may not want consumers to experience such a sharp bill increase. We discussed the Dealers whether the Province could be given the option to cure an event of default of a financing entity before it results in acceleration of debt. The Dealers were amenable to

providing this option.

When we raised this possibility, the Province indicated it would like to have such an option, and asked us to put together a note describing the terms.

Please find attached a note describing the proposed terms of the option.

Let us know if you have any questions or comments, or if this should be directed to someone else.

Regards,

Les

Leslie Wong
Senior Counsel
Ontario Power Generation Inc.
700 University Avenue, H18 G26.1, Toronto, ON M5G 1X6
T: (416) 592-3110 **|** E: leslie.wong@opg.com

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Memorandum

To: Her Majesty the Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance (the "**Province**")

Date: August 30, 2017

From: Ontario Power Generation Inc.

Subject: Acceleration of Ontario Fair Hydro Plan Act Obligations

Under the *Ontario Fair Hydro Plan Act*, 2017, clean energy adjustments are designed to recover the "funding obligations" and "finance amounts" (as defined in the Act and regulations thereunder, respectively, collectively referred to as the "**Obligations**") that become due during a reference period (each generally a six month period). This means that if there is an event of default under the master trust indenture (the "**Indenture**") that is not or cannot be cured, the full amount of the accelerated Obligations may become due and payable and be included in the calculation of the clean energy adjustments for the next reference period. Furthermore, it is likely that all funding obligations will be cross-defaulted to each other, so acceleration of one series of funding obligations will likely result in acceleration of all funding obligations. Accordingly, electricity rates for specified consumers would be set at a rate for a six-month period that would result in repayment in full of all outstanding and accelerated Obligations. On the assumption that all interested parties would like to avoid such a scenario, we have discussed with the dealers the following as an approach in the context of an event of default:

1. Upon the occurrence of a Default under the Indenture (being an event which, with the passage of time or giving of notice could become an Event of Default), the Province would have the following rights:

(a) a right to receive written notice from the trustee under the Indenture (at the same time that such trustee provides a notice to the financing entity through OPG as the manager) that a Default has occurred;

(b) in the event of the occurrence of an Event of Default that is not based upon the occurrence of a Default followed by a cure period (such as insolvency of the financing entity), a right to receive written notice from the trustee under the Indenture that an Event of Default has occurred; and

(c) a right to cure the Default or the Event of Default, as the case may be, within a specified cure period, which will run concurrently with any cure period available under the Indenture with respect to the applicable Event of Default.

2. The Indenture will provide that notwithstanding the occurrence of an Event of Default, the Obligations may not be accelerated until the expiry of the cure period available to the Province. If the Default or Event of Default in question cannot be cured by the Province on behalf of the financing entity within this cure period, then the Province will have the option to "cure" and avoid acceleration of the Obligations by assuming those Obligations. This option would be set out in the provincial protection and assurances agreement. In such circumstances, as in the case of a change of law, the Fair Hydro program would be discontinued and the Obligations owing under the program would be those of the Province.

From: John Kim
To: Ronald Kwan
Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt
Date: Friday, September 08, 2017 12:32:37 PM

Fyi

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 12:09 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Would the late September early Oct:ober issuance be expected to benefit from the provincial support agreement?

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Mike Manning
Sent: Friday, September 8, 2017 12:04
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Cc: Manning, Mike (OFA)
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

OPG doesn't have a full financing plan at this time. I believe they are hoping to firm up numbers from Energy fairly shortly, before they meet the ratings agencies. They are currently thinking of issuing $300 to $500 million in late September/early October. Roughly $125 million of this will be to fund the subordinated (5% requirement on roughly $2.5 billion of annual funding). The senior debt (the 51% that we are focussing on) is roughly planned for late November with roughly $400 million of issuance and then follow-up issuance on a fairly regular basis thereafter. Hope this is helpful.
Regards, Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 11:39 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Slightly different question. Have you seen a draft of the financing plan or know when it might be available?

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Hanslep, Malle (MOF)
Sent: Friday, September 8, 2017 11:36
To: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Yes we just got this from Energy

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Mike Manning
Sent: Friday, September 8, 2017 11:02
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Hi Guys:
Not sure if you have seen this but passing it along. We may want to have this option, but running out of time.

Mike

From: WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
Sent: Thursday, September 07, 2017 4:20 PM
To: James Rehob (ENERGY) <James.Rehob@ontario.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Dear James,

During the discussions of the Provincial guarantee at a recent Thursday rate mitigation meeting, OPG raised the issue of potential acceleration of financing entity debt where the guarantee is not applicable. That would occur if there is an event of default (e.g. if the trust is not able to pay/service the debt) for a reason that doesn't trigger the guarantee (e.g. for a reason other than a change of the legislation).

When there is an acceleration, all of the principal amount becomes due and a large payment would need to be made by the financing entity to bondholders. If the acceleration occurs after the moratorium period, the amount payable to bondholders would be put through the Clean Energy Adjustment to specified consumers. That could result in a significant increase in consumer bills in a short period of time.

We understand that the Province may not want consumers to experience such a sharp bill increase. We discussed the Dealers whether the Province could be given the option to cure an event of default of a financing entity before it results in acceleration of debt. The Dealers were amenable to providing this option.

When we raised this possibility, the Province indicated it would like to have such an option, and asked us to put together a note describing the terms.

Please find attached a note describing the proposed terms of the option.

Let us know if you have any questions or comments, or if this should be directed to someone else.

Regards,

Les

Leslie Wong
Senior Counsel
Ontario Power Generation Inc.
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From: Hanslep, Malle (MOF)
To: Gadi Mayman; Mike Manning; Ken Kandeepan; Carlos Yep; James Devine; Ronald Kwan; John Kim
Cc: Tobias P. Whitfield (MOF); Elcombe, James (MOF)
Subject: FW: Fair Hydro -- Drafts of DOT and Management Agreement
Date: Sunday, September 10, 2017 2:10:25 PM
Attachments: ATT00001.htm
Fair Hydro - Management Agreement.docx
ATT00002.htm
Declaration of Trust - Fair Hydro.docx
ATT00003.htm

FYI. Some further background documents.

-----Original Message-----

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]

Sent: September-08-17 8:43 PM

To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Rehob, James (ENERGY); Elcombe, James (MOF); McKinlay, Tom (ENERGY); Thouin, Alena (ENERGY)

Subject: Fwd: Fair Hydro -- Drafts of DOT and Management Agreement

FYI. I don't expect these documents will advance our understanding of the points of interest as they are basic structural documents regarding the administration of the FE, rather than the obligations to be incurred by the FE. Regards, Steve

Stephen R. Ashbourne

Partner

stephen.ashbourne@blakes.com<mailto:stephen.ashbourne@blakes.com>

Dir: 416-863-3086<tel:416-863-3086>

_____

[cid:image8c4407.GIF@45a0c203.449e6f26]

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Begin forwarded message:

From: "Mansoori, Nina" <nmansoori@torys.com<mailto:nmansoori@torys.com>>

Date: September 8, 2017 at 6:32:42 PM EDT

To: "'ASHBOURNE, STEPHEN'" <STEPHEN.ASHBOURNE@blakes.com<mailto:STEPHEN.ASHBOURNE@blakes.com>>

Cc: "Feldman, Michael" <mfeldman@torys.com<mailto:mfeldman@torys.com>>, "Ramchandani, Rima" <rramchandani@torys.com<mailto:rramchandani@torys.com>>, "Olusoga, Yinka" <yolusoga@torys.com<mailto:yolusoga@torys.com>>, "Saulnier, Brett" <bsaulnier@torys.com<mailto:bsaulnier@torys.com>>, "Mansoori, Nina" <nmansoori@torys.com<mailto:nmansoori@torys.com>>

Subject: RE: Fair Hydro -- Drafts of DOT and Management Agreement

Steve, as requested, attached are our current working drafts of the Fair Hydro Management Agreement and the Declaration of Trust. Please note that these drafts are still in progress and, in particular, are subject to revision to reflect comments from OPG and the broader working group, as well as finalization of the other transaction documents.

Please let us know if you have any comments or questions on the attached.

Best Regards,

Nina

Nina Mansoori

P. 416.865.7332 | F. 416.865.7380 | 1.800.505.8679

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<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.torys.com&d=DwIGaQ&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=6dEdDcYg16VeHvp1lsPgBeM1tR6BjX83G_aUANnzPIQ&s=HnwVsbKoPJnG5Tc7WM-K07trXvG2TnkyIZDBMWxAK28&e= >

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MANAGEMENT AGREEMENT

between

[FINANCING ENTITY]
as Issuer

- and -

ONTARIO POWER GENERATION INC.
as Manager

Acknowledged and Accepted by

■
as Indenture Trustee

Dated as of ■, 2017

TABLE OF CONTENTS

ARTICLE 1
INTERPRETATION 2
1.1 Definitions 2

ARTICLE 2
INTRODUCTORY PROVISIONS 5
2.1 Sections and Headings 5
2.2 Extended Meanings 5
2.3 References to Acts of the Issuer or the Issuer Trustee 5

ARTICLE 3
APPOINTMENT OF THE MANAGER 5
3.1 Appointment and Authority of the Manager 5

ARTICLE 4
DUTIES AND OBLIGATIONS OF THE MANAGER 6
4.1 Program Agreements 6
4.2 Issuer Investment Interest 10
4.3 Investment Interest Records 11
4.4 Payment of Other Issuer Fees and Expenses 12
4.5 Delegation 12
4.6 Annual Compliance Certificates 13
4.7 Acknowledgment of Duties as Financial Services Manager 13

ARTICLE 5
OTHER PROVISIONS RELATING
TO THE DUTIES AND COMPENSATION 13
5.1 Standard of Care 13
5.2 Compliance with Program Agreements; Conformity with Law 14
5.3 Liabilities 14
5.4 Compensation of the Manager 15
5.5 Compensation of the Issuer 15
5.6 Indemnification by Manager 15
5.7 Contracting with Itself and Affiliates 17

ARTICLE 6
REPRESENTATIONS AND WARRANTIES 17
6.1 Representations of the Issuer 17

6.2 Representations of the Manager 17

ARTICLE 7
TERMINATION AND RESIGNATION 17
7.1 Termination 17

ARTICLE 8
MISCELLANEOUS 18
8.1 Appointment of Manager as Attorney-in-Fact 18
8.2 Amendments and Waivers 18
8.3 Withholding Rights 18
8.4 No Petition 19
8.5 Notice 19
8.6 Recourse to Issuer Trustee and the Issuer 20
8.7 Severability 20
8.8 Execution of Counterparts; Electronic Delivery 20
8.9 Governing Law 20
8.10 Grant of Security Interest to Indenture Trustee 20

EXHIBIT

Exhibit A – Annual Compliance Certificate

MANAGEMENT AGREEMENT

THIS AGREEMENT made as of ■, 2017,

BETWEEN:

[FINANCING ENTITY], a trust formed under the laws of the Province of Ontario

(the "**Issuer**")

- and -

ONTARIO POWER GENERATION INC., a corporation established under the laws of the Province of Ontario

(the "**Manager**")

- acknowledged and accepted by -

[INDENTURE TRUSTEE], a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and territories of Canada, as indenture trustee

(the "**Indenture Trustee**")

WHEREAS the Government of Ontario has passed the *Ontario Fair Hydro Plan Act, 2017* (the "**Act**") for the purpose of, among other things, ensuring that Clean Energy Costs and Clean Energy Benefits are fairly allocated among present and future Specified Consumers;

AND WHEREAS Ontario Power Generation Inc. has been appointed as Financial Services Manager under the Act to, among other things, evaluate whether potential Funding Obligations should be incurred by Financing Entities for the purposes of acquiring and financing Investment Interests;

AND WHEREAS the Issuer is a Financing Entity established by the Financial Services Manager pursuant to the Act and may from time to time finance the acquisition from the IESO of an Investment Interest pursuant to the terms of the Master Transfer and Servicing Agreement;

AND WHEREAS the Indenture Trustee has been appointed pursuant to the Indenture to act on behalf of all Specified Creditors and wishes to acknowledge and accept the rights and obligations granted to it thereby, including, but not limited to, those rights and obligations set forth in Sections 4.1(a)(vii), 4.1(a)(xx), 4.1(a)(xxiii), 4.3(a), 4.7(d), 4.7(e), 5.6, 7.1, 8.2(b) and 8.10 hereof;

AND WHEREAS the Issuer and the Manager are entering into this Agreement in furtherance of, and in accordance with, the Act;

NOW THEREFORE in consideration of the foregoing and the mutual covenants and agreements contained herein (the receipt and adequacy of which are hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

(a) In this Agreement, the following terms have the following meanings:

"**Act**" has the meaning ascribed thereto in the recitals;

["Administrative Agent" means [Ontario Power Generation Inc.], as administrative agent under the Administrative Services Agreement, and its successors and assigns in such capacity;

"Administrative Services Agreement" means the administrative services agreement dated ■, 2017 between the Administrative Agent and the Issuer;][1]

"**Agreement**" means this Agreement, as amended, supplemented, modified, restated or replaced from time to time, and the expressions "herein", "hereof", "hereto", "hereunder" and similar expressions refer to this Agreement and not to any Article, Section, paragraph, subparagraph or clause hereof;

"**Board**" means the Ontario Energy Board, a statutory corporation without share capital continued under the *Ontario Energy Board Act, 1998*, S.O., 1998;

"**Clean Energy Adjustment**" has the meaning ascribed to the term "clean energy adjustment" in the Act;

"**Clean Energy Benefits**" has the meaning ascribed to the term "clean energy benefits" in the Act;

"**Clean Energy Costs**" has the meaning ascribed to the term "clean energy costs" in the Act;

"**Declaration of Trust**" means the declaration of trust made as of ■, 2017 under which the Issuer was established, as may be supplemented, amended, replaced or amended and restated from time to time;

"**Fair Allocation Amount**" has the meaning ascribed to the term "fair allocation amount" in the Act;

[1] **NTD**: Subject to confirmation that this agreement will be required.

"**Finance Amount**" has the meaning ascribed to the term "finance amount" in the Act;

"**Financial Services Manager**" has the meaning ascribed to such term under the Act;

"**Financing Entity**" has the meaning ascribed to the term "financing entity" in the Act;

"**Financing Plan**" has the meaning ascribed to such term under the Act;

"**Funding Obligation**" has the meaning ascribed to the term "funding obligation" in the Act;

"**IESO**" means the Independent Electricity System Operator, a statutory corporation without share capital continued under the *Electricity Act, 1998*, S.O. 1998;

"**Indenture**" means the master trust indenture dated ■, 2017 between the Indenture Trustee and the Issuer, as may be supplemented, amended, replaced or amended and restated from time to time;

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act;

"**Investment Interest Records**" means, collectively, any and all documents and records the Manager shall keep on file, in accordance with its customary procedures, relating to the Issuer Investment Interest, including copies of all documents filed with the Board in connection with any Clean Energy Adjustments and computational records relating thereto;

"**Issuer Compensation**" has the meaning ascribed to such term in Section 5.5;

"**Issuer Funding Obligation**" means a Funding Obligation incurred by the Issuer;

"**Issuer Investment Interest**" means, initially, the Investment Interest acquired by the Issuer pursuant to the first Transfer completed under the Master Transfer and Servicing Agreement and, upon the completion of each Transfer thereafter, the cumulative Investment Interest acquired by the Issuer;

"**Issuer Property**" means, as of any particular time, all assets of the Issuer and all property, real, personal or otherwise, tangible or intangible, which has been transferred, conveyed or paid to, or acquired by the Issuer, including all income, earnings, profits and gains therefrom, and which at such time is owned or held by the Issuer;

["**Management Base Fee**" means, in respect of a calendar month, a base fee equal to (i) the product of (A) the Management Fee Rate and (B) the average of the opening and closing balance of the outstanding principal amount of all Issuer Funding Obligations in the previous calendar month incurred to fund the acquisition of the Issuer Investment Interest; and (ii) divided by 12;

"**Management Fee Rate**" means the rate set out on Schedule A;

"**Management Variable Fee**" means, in respect of each calendar year, a fee equal to the sum of the [Variable Fee] calculated for each tranche of Issuer Funding Obligations issued in the applicable calendar year;] [2]

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement dated ■, 2017 between the Issuer and the IESO and acknowledged and accepted by the Indenture Trustee, as may be supplemented, amended, replaced or amended and restated from time to time;

"**Minister**" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of the Act under the *Executive Council Act*, S.O. 1990;

"**Offering Materials**" means any document used by the Issuer in connection with offering securities representing Issuer Funding Obligations for sale including, without limitation, any information circular, offering memorandum, annual information form, preliminary prospectus, prospectus, prospectus supplement, term sheet, registration statement or other similar document, or any amendments to such documents;

"**Perpetuity Date**" means the date that is one day prior to the 21st anniversary of the death of the last surviving lineal descendant of Queen Elizabeth, II of England living as of the date of the Declaration of Trust;

"**Program Agreements**" means the Indenture, each Supplemental Indenture, the Declaration of Trust, this Agreement, **[the Administrative Services Agreement,]** the Master Transfer and Servicing Agreement, each Transfer Notice, any Co-Owner Agreements, the **[Provincial Protections and Assurances Agreement]**[3], 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;

"**Reference Period**" has the meaning ascribed to the term "reference period" in the Act;

"**Regulation AB**" means Subpart 229.1100 – Asset Backed Securities (Regulation AB), 17 C.F.R. §§229.1100-229.1125, and all related rules and regulations of the U.S. Securities and Exchange Commission, as such rules may be amended from time to time, and subject to such clarification and interpretation as have been provided by the U.S. Securities and Exchange Commission or by the staff of the U.S. Securities and Exchange Commission, or as may be provided by the U.S. Securities and Exchange Commission or its staff from time to time;

"**Regulations**" means the regulations promulgated under the Act;

"**Servicer CEA Collections**" has the meaning ascribed thereto in the Master Transfer and Servicing Agreement;

---

[2] **NTD:** Fee provisions and related definitions subject to finalization of fee regulations.

[3] **NTD**: To be conformed to final agreement.

"**Specified Consumer**" has the meaning ascribed to the term "specified consumer" in the Act;

"**Standard of Care**" has the meaning ascribed to such term in Section 5.1;

"**Transfer**" has the meaning ascribed to the term "transfer" in the Act; and

"**True Up Amount**" has the meaning ascribed to the term "true up amount" in the Act.

(b) Unless otherwise defined in this Agreement, all capitalized terms used in this Agreement shall have the meanings ascribed thereto in the Indenture.

ARTICLE 2
INTRODUCTORY PROVISIONS

2.1 Sections and Headings

The table of contents does not form part of this Agreement. The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

2.2 Extended Meanings

Words importing the singular number only will include the plural and vice versa and words importing the masculine gender will include the feminine and neuter genders and vice versa. Unless otherwise specified, a reference to any agreement, instrument or declaration means such agreement, instrument or declaration as the same may be amended, supplemented, modified, restated or replaced from time to time.

2.3 References to Acts of the Issuer or the Issuer Trustee

For greater certainty, where any reference is made in this Agreement to an act to be performed by the Issuer, such reference will be construed and applied for all purposes as if it referred to an act to be performed by the Issuer Trustee as trustee of the Issuer. Where any reference is made in this Agreement to an act to be performed by the Issuer Trustee, such reference will be construed and applied for all purposes as if it referred to an act to be performed by the Issuer Trustee as trustee of the Issuer.

ARTICLE 3
APPOINTMENT OF THE MANAGER

3.1 Appointment and Authority of the Manager

The Issuer hereby appoints Ontario Power Generation Inc. as the Manager to act as its agent to provide services and perform duties for and on behalf of and for the account of the Issuer, as hereinafter provided, in connection with the activities of the Issuer relating to:

(a) the acquisition, administration and possible transfer of the Issuer Investment Interest on behalf of the Issuer in accordance with the Act;

(b) acting as custodian of the Investment Interest Records;

(c) the entering into and execution and delivery on behalf of the Issuer of any Program Agreements;

(d) the incurrence of Issuer Funding Obligations, and repayment thereof, to fund the acquisition of the Issuer Investment Interest;

(e) the negotiation, execution and delivering or filing on behalf of the Issuer of any Offering Materials;

(f) the implementation and administration of the provisions of the Program Agreements to which the Issuer or the Manager on its behalf is a party;

(g) the acquisition, administration and sale of investments that may from time to time be made by the Issuer; and

(h) all activities as may be reasonably incidental to the foregoing or necessary in connection with the performance by the Issuer of its obligations under the Program Agreements, the Act and the Regulations.

The Manager accepts such appointment and agrees to act in such capacity and to provide or cause to be provided the services and to perform the duties set forth in this Agreement on and subject to the terms and conditions in this Agreement. The Issuer hereby grants to the Manager the power and authority to act in the name of and on behalf of the Issuer, and to execute and deliver all documents, agreements and instruments in the name and on behalf of the Issuer, for the sole purpose of providing the services and performing the duties to be provided and performed by the Manager pursuant to this Agreement. **[Notwithstanding anything to the contrary in this Agreement, the Manager shall not provide or cause to be provided the services or perform any of the duties delegated to the Administrative Agent under the Administrative Services Agreement.]**

ARTICLE 4
DUTIES AND OBLIGATIONS OF THE MANAGER

4.1 Program Agreements

(a) The Manager will administer as agent for and on behalf of and for the account of the Issuer the activities of the Issuer in connection with the Program Agreements and, in this regard, its services and duties will include:

(i) negotiating and executing, on behalf of the Issuer, Program Agreements and any documents related thereto with any Person and any amendments, supplements, replacements or restatements that may be necessary or desirable from time to time;

(ii) arranging for liquidity coverage required pursuant to the Program Agreements, negotiating and settling Liquidity Agreements and administering on behalf of the Issuer the activities of the Issuer in connection with such Liquidity Agreements;

(iii) when necessary or desirable, arranging for the Credit Enhancement of the Issuer Investment Interest, negotiating and settling Credit Enhancement Agreements and administering on behalf of the Issuer the activities of the Issuer in connection with such Credit Enhancement Agreements;

(iv) seeking satisfaction of the Rating Agency Condition from the Rating Agencies in respect of the Program Agreements and proposed amendments thereto if required;

(v) based on reports submitted to it, monitoring the recording, accounting for and enforcement of payment of amounts distributable or payable to the Issuer in connection with any Program Agreement;

(vi) maintaining accounts and banking records of the Issuer with respect to acquisitions or investments in and distributions and payments in connection with the Issuer Property, including Eligible Investments;

(vii) promptly after obtaining knowledge thereof, notifying the Issuer, the Indenture Trustee and the Rating Agencies of a breach in any material respect of any of the Manager's representations, warranties or covenants contained herein;

(viii) to the extent that the Issuer shall from time to time have funds the application of which is not then necessary to the repayment of outstanding indebtedness of the Issuer or to the payment of any costs, fees, expenses or disbursements of the Issuer, applying such funds on behalf of and for the account of the Issuer to the acquisition of Eligible Investments as the Manager may select pending the application of such funds to the repayment of outstanding indebtedness of the Issuer or to the payment of any costs, fees, expenses or disbursements of the Issuer; provided, however, that in making any such Eligible Investments, the Manager shall adhere to the requirements of the Program Agreements in all respects;

(ix) taking all other necessary and appropriate action to enable the Issuer to exercise its rights and perform its obligations in accordance with the provisions of any Program Agreement, including exercising rights of termination under Program Agreements and the enforcement of security or in respect of Eligible Investments;

(x) providing for the defense of any action, suit or proceeding brought against the Issuer or affecting the Issuer or any Issuer Property;

(xi) taking all such steps as may be necessary or appropriate to enable the Issuer to collect on any security relating to the Issuer Investment Interest;

(xii) determining, in accordance with the Financing Plan, when it is appropriate for the Issuer to enter into Derivative Agreements, selecting suitable counterparties thereto and negotiating the terms thereof in accordance with the terms of the Program Agreements;

(xiii) determining, in accordance with the Financing Plan, when it is appropriate for the Issuer to incur Funding Obligations, including the determination of applicable principal (or face amount), amortization/sinking fund schedule(s), interest rates (or rate of discount), interest payment frequency, issuance date and maturities of such Funding Obligations;

(xiv) making determinations under the Declaration of Trust regarding any distributions to beneficiaries of the Issuer;

(xv) promptly providing the Issuer Trustee notice of the Perpetuity Date once determined;

(xvi) administering all activities of the Issuer in connection with the issuance, sale, payment, repurchase and redemption of Issuer Funding Obligations and the execution and performance by the Issuer of its obligations under the Program Agreements, including all reporting obligations, applying for and monitoring the ratings of any Issuer Funding Obligations and coordinating all aspects of obtaining and maintaining ratings from the Rating Agencies;

(xvii) preparing, executing and delivering, in accordance with the requirements of all applicable securities laws, any Offering Materials to be furnished by the Issuer to any dealer or prospective purchaser of Issuer Funding Obligations, in accordance with the Issuer's obligations to prepare such Offering Materials under any Underwriting Agreement or Agency Agreement, and preparing amendments to or revising or updating information for such Offering Materials as required from time to time (it being understood that the Manager, as between it and the Issuer, shall not be responsible for the accuracy of any portion of the Offering Materials prepared from information obtained from any Person other than the Issuer and the Manager);

(xviii) ensuring that all statements of the Issuer made in any Offering Materials or in connection with entering into any Program Agreement are at all times true and correct in all material respects (it being understood that the Manager, as between it and the Issuer, shall not be responsible for the accuracy of any portion of the Offering Materials prepared from information obtained from any Person other than the Issuer and the Manager);

(xix) arranging for compliance by the Issuer with any continuous disclosure obligations it may have under any applicable securities laws;

(xx) preparing and filing all reports, certificates and other documents that are required to be prepared and filed pursuant to the Indenture in order to comply with Regulation AB and delivering all such reports, certificates and other documents to the Issuer, the Indenture Trustee and the Rating Agencies;

(xxi) arranging for the retention of legal counsel as may be necessary to perform for the Issuer the services necessary or appropriate to its organization or the conduct of its operations and all general services customarily provided by legal counsel;

(xxii) arranging for the appointment, discharge and reappointment of an auditor of the Issuer and negotiating and fixing the fees of any such auditor;

(xxiii) arranging for the retention of an accounting firm and ensuring that proper books of account and complete records of all transactions of the Issuer undertaken or performed by it under the Program Agreements are maintained and rendering statements or copies thereof from time to time as requested by the Indenture Trustee and any issuing and paying agent, Liquidity Lender or Credit Enhancer and co-operating in all audits of the Issuer;

(xxiv) preparing, or arranging for the preparation of, all required financial statements of the Issuer;

(xxv) preparing, procuring, delivering and filing, or causing to be prepared, procured, delivered or filed, any reports, attestations, exhibits, certificates or other documents required to be delivered or filed with the applicable securities regulator by the Issuer under the applicable securities or other applicable laws;

(xxvi) providing clerical and bookkeeping services necessary and appropriate for the Issuer relating to all transactions of the Issuer undertaken or performed by the Manager hereunder, and the Issuer's incurrence and repayment of Funding Obligations and other borrowings of money and maintaining and preserving records regarding the foregoing;

(xxvii) paying all taxes or assessments of whatever kind or nature imposed on the Issuer, and withholding and remitting all taxes required to be withheld and remitted by the Issuer under applicable laws, in each case, on behalf of and for the account of the Issuer and in accordance with the requirements of any applicable laws and subject to the payment priorities specified in the Program Agreements;

(xxviii) preparing and filing, in accordance with the requirements of any applicable laws, all returns (including, for greater certainty, all returns, information returns, elections, designations, declarations, schedules, statements or supporting documents in relation thereto) required to be filed with any government authority, or prepared as support for any such filing, in connection with (A) the determination, assessment or collection of any taxes of the Issuer or taxes, or amounts on account of taxes, that the Issuer is required to withhold and remit by applicable laws, or (B) the administration of any laws, regulations or administrative requirements relating to taxes; and

(xxix) providing such other services as are incidental to the foregoing or as the Issuer and the Manager may agree.

(b) The Manager will not offer to enter into any Program Agreement:

(i) after the Manager receives a notice of termination pursuant to Section 7.1; or

(ii) if the entering into of the Program Agreement would violate any other Program Agreements.

4.2 Issuer Investment Interest

The Manager will administer as agent for and on behalf of and for the account of the Issuer the following activities of the Issuer in connection with the acquisition and administration of the Issuer Investment Interest in accordance with the Program Agreements:

(a) enforcing the rights of the Issuer under the Program Agreements;

(b) seeking to protect the Issuer and the Specified Creditors from claims, actions or other proceedings of third parties that, if successfully pursued, would result in a breach of any representation by the IESO set forth in the Master Transfer and Servicing Agreement;

(c) executing and filing such filings, including filings under the PPSA, and causing such filings to be executed and filed, all in such manner and in such places as may be required by law to fully preserve, maintain, protect and perfect the ownership interest of the Issuer and the first priority security interest of the Indenture Trustee in the Issuer Investment Interest, including all filings required under the Act and the PPSA (and equivalent statutes in any applicable jurisdiction) relating to the transfer of the ownership of the rights and interest in the Issuer Investment Interest by the IESO to the Issuer or the pledge of the Issuer Investment Interest to the Indenture Trustee;

(d) maintaining accounts and records as to the Issuer Investment Interest accurately and in accordance with its standard accounting procedures and in sufficient detail

to permit reconciliation between the Servicer CEA Collections and the Clean Energy Adjustment;

(e) instituting any action or proceeding necessary to compel performance by the Board, the IESO, the Province of Ontario, the Indenture Trustee, the Issuer Trustee or any of their respective agents of any of their obligations or duties under the Act or any Program Agreement, as the case may be, and taking such legal or administrative actions, including defending against or instituting and pursuing legal actions and appearing or testifying at hearings or similar proceedings, in each case as may be reasonably necessary;

(f) seeking to block or overturn any attempts to cause a repeal of, modification of or supplement to the Act or the Regulations or the rights of holders of any Funding Obligations, by legislative enactment that would be materially adverse to the Issuer or the Specified Creditors or that would otherwise cause an impairment of the rights of the Issuer or the Specified Creditors; and

(g) instituting any action or proceeding necessary to appeal or challenge the decision of a court that would be materially adverse to the Issuer or the Specified Creditors or that would otherwise cause an impairment of the rights of the Issuer or the Specified Creditors.

4.3 Investment Interest Records

(a) The Manager will act as custodian of the Investment Interest Records as agent for and on behalf of and for the account of the Issuer, which are hereby constructively delivered to the Indenture Trustee, as pledgee of the Issuer with respect to the Issuer Investment Interest, and, in this regard, the Manager shall:

(i) hold the Investment Interest Records on behalf of the Issuer and the Indenture Trustee and maintain such accurate and complete accounts, records and computer systems pertaining to the Investment Interest Records as shall enable the Issuer and the Indenture Trustee, as applicable, to comply with the Program Agreements;

(ii) promptly report to the Issuer, the Indenture Trustee and the Rating Agencies any failure on its part to hold the Investment Interest Records and maintain its accounts, records and computer systems as herein provided and promptly take appropriate action to remedy any such failure;

(iii) maintain the Investment Interest Records at its offices at 700 University Avenue, Toronto, Ontario or at such other office as shall be specified to the Issuer and the Indenture Trustee by written notice at least 30 days prior to any change in location;

(iv) make available for inspection, audit and copying to the Issuer and the Indenture Trustee or their respective duly authorized representatives, attorneys or auditors the Investment Interest Records at such times during

normal business hours as the Issuer or the Indenture Trustee shall reasonably request and that do not unreasonably interfere with the Manager's normal operations; and

(v) upon instruction from the Indenture Trustee in accordance with the Indenture or any other Person in accordance with another Program Agreement, release any Investment Interest Records to the Indenture Trustee, the Indenture Trustee's agent or the Indenture Trustee's designee, as the case may be, at such place or places as the Indenture Trustee may designate, as soon as practicable.

(b) Nothing in this Section 4.3 shall affect the obligation of the Manager to observe any applicable law prohibiting disclosure of information regarding Specified Consumers, and the failure of the Manager to provide access to such information as a result of such obligation shall not constitute a breach of this Section 4.3.

(c) Nothing in this Section 4.3 shall be deemed to require an initial review or any periodic review by the Issuer or the Indenture Trustee of the Investment Interest Records. The Manager's duties to hold the Investment Interest Records set forth in this Section 4.3, to the extent the Investment Interest Records have not been previously transferred to a successor Manager pursuant to Section 7.1, shall terminate one year and one day after the earlier of (i) the date on which the Manager is succeeded by a successor Manager in accordance with Section 7.1 and (ii) the day after the termination of the Indenture and payment in full of the Issuer Funding Obligations or any other amounts owed under the Indenture.

4.4 Payment of Other Issuer Fees and Expenses

The Manager in accordance with the Program Agreements may, at its option, pay from its own funds the fees and expenses properly incurred on behalf of the Issuer in the ordinary course of the Issuer's operations. To the extent such fees and expenses are paid by the Manager from its own funds, the Issuer will reimburse the Manager for such payments, subject to the payment priorities specified in the Program Agreements.

4.5 Delegation

In connection with the services to be provided or duties to be performed by it under this Agreement, the Manager may, subject to any limitation on delegation imposed by applicable law, by the Declaration of Trust or by the Issuer, engage or employ any Persons as employees, agents, representatives, independent contractors or otherwise, including, without limitation, banks, underwriters, accountants, investment advisers, tax advisers, insurance advisers, lawyers, appraisers, bankers, brokers, dealers, depositories, custodians, agents for collection or others in one or more capacities and any other advisers which the Manager deems advisable, and may delegate any of the powers and duties of the Manager to any such Persons upon such terms and conditions as it may determine. For greater certainty, the Manager shall remain liable and responsible for any of the powers and duties of the Manager which it delegates to a third party.

4.6 Annual Compliance Certificates

The Manager shall provide to the Issuer Trustee a certificate in the form of Exhibit A within 120 days after the end of each fiscal year of the Issuer confirming compliance with the matters referred to in such certificate. The Issuer shall be entitled to rely on such certificate for the period between the effective dates of two consecutive certificates certifying such compliance unless the Issuer has received written notice to the contrary.

4.7 Acknowledgment of Duties as Financial Services Manager

The parties hereto acknowledge that, for so long as Ontario Power Generation Inc. is the Financial Services Manager appointed under the Act, Ontario Power Generation Inc., in its capacity as the Financial Services Manager, will satisfy its obligations as Financial Services Manager in accordance with the Act and the Regulations, and, for greater certainty, its services and duties in this regard will include:

(a) preparing the Financing Plan and, in accordance therewith, evaluating whether Funding Obligations should be incurred by the Issuer for the purposes of acquiring an Investment Interest or refinancing maturing Issuer Funding Obligations;

(b) determining the Clean Energy Adjustment (inclusive of any True Up Amount) payable by Specified Consumers in respect of each month in a Reference Period;

(c) calculating the True Up Amount;

(d) notifying the Board of the Clean Energy Adjustment (inclusive of any True Up Amount) in respect of a Reference Period or such other period as prescribed by the Regulations and sending a copy of such notice, as required, to the Issuer, the Indenture Trustee and the Rating Agencies concurrently therewith; and

(e) if, for any reason any Clean Energy Adjustment is not implemented and effective in respect of the Reference Period set forth in the notice and commencing on the date required under the Act, notifying the Issuer, the Indenture Trustee and each Rating Agency by the end of the second Business Day after such applicable date.

ARTICLE 5
OTHER PROVISIONS RELATING TO THE DUTIES AND COMPENSATION

5.1 Standard of Care

The Manager will perform its duties hereunder (including, for so long as it is the Financial Services Manager, its duties as Financial Services Manager under the Act and the Regulations) diligently and in conformity with the Issuer's obligations under the Program Agreements and with the Act and the Regulations, as applicable, and honestly, in good faith and in the best interests of the Issuer and, in connection therewith, will exercise the degree of care, diligence and skill that a reasonably prudent Person would exercise in comparable circumstances (the "**Standard of Care**"). In carrying out its obligations hereunder, the Manager may rely upon

the opinion or advice of or information obtained from any counsel, auditor, valuer or certificates from officers of any of the other parties to Program Agreements. Unless otherwise required by applicable law, the Manager will not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Manager will not be required to devote its entire time to its duties hereunder. Notwithstanding anything else to the contrary herein contained, nothing herein shall be interpreted or construed as an obligation of or on the part of the Manager, and the Manager shall not be liable or obligated, to pay or make any payment of, on or in respect of any debt, liability or obligation of the Issuer (including any payment of, on or in respect of any Issuer Funding Obligations or under any other Program Agreement), as agent for or on behalf of the Issuer or otherwise, except from the monies or funds of the Issuer which are made available to the Manager pursuant to this Agreement or the other Program Agreements for the purpose of such payment.

5.2 Compliance with Program Agreements; Conformity with Law

The Manager acknowledges that it has received copies of the Program Agreements, the Act and the Regulations in effect on the date hereof and is familiar with and understands the duties of the respective parties thereto or governed thereby, including those duties of the Issuer which are being delegated to the Manager hereunder. Notwithstanding anything herein to the contrary, the Manager shall perform its duties hereunder in a manner consistent with any applicable provisions of the Program Agreements in effect from time to time, and the Manager will not, in performing its obligations hereunder, take any action which it knows or ought reasonably to know would cause it or the Issuer to be in violation of any law, rule or regulation applicable to it. The Manager will use reasonable commercial efforts to comply with the terms applicable to the Issuer when acting on its behalf under all Program Agreements and will use reasonable commercial efforts in accordance with its Standard of Care to take such actions as would reasonably be expected to result in the representations and warranties given by the Issuer in any Program Agreement being true and correct in all material respects when made.

5.3 Liabilities

Except as provided in Section 5.6,

(a) the Manager will not be liable for any liabilities of the Issuer; and

(b) subject to the payment priorities specified in the Program Agreements, the Issuer agrees to indemnify, defend and hold harmless the Manager from and against any and all liabilities which may be imposed on, incurred by or assessed against the Manager as a result of any act or omission of the Issuer or the Manager under this Agreement or under any Program Agreement; provided that this Section 5.3(b) does not apply to the extent that in any circumstances there has been wilful misconduct or gross negligence of the Manager or its respective officers, employees or agents or any failure to comply with the standard of care required under Section 5.1.

To the extent that a liability is attributable solely to a single Series or a number of specific Series of Issuer Funding Obligations, the Manager will first exhaust its recourse against

the assets available for recovery of such liability and designated to such Series of Issuer Funding Obligations. If such assets are insufficient to satisfy the indemnity set out in this Section 5.3, or if the liability is not attributable to a single Series or a number of specific Series of Issuer Funding Obligations, the liability will be satisfied on a pro rata basis as among the assets available for recovery of such liability and designated to all Issuer Funding Obligations.

Each party expressly disclaims any intention to create a partnership, and neither the Issuer nor the Manager will be deemed to be carrying on business in partnership by reason of its execution and delivery of this Agreement or the exercise or performance by it of its respective rights and obligations hereunder.

5.4 Compensation of the Manager

In consideration of and as compensation for all services provided and duties performed by the Manager pursuant to this Agreement, the Issuer will pay to the Manager, subject to the payment priorities specified in the Program Agreements: (i) the Management Base Fee on a monthly basis and (ii) the Management Variable Fee on an annual basis.[4] The Management Base Fee and the Management Variable Fee are exclusive of any applicable sales taxes and the Issuer shall pay to the Manager the amount of any applicable sales taxes in addition to such fees.

5.5 Compensation of the Issuer

In consideration of the Issuer engaging in the activities contemplated by the Act, the Manager will pay to the Issuer, on a monthly basis, the sum of $10 per month for any month or part thereof that the Issuer is engaged in such activities (the "**Issuer Compensation**"). The Issuer Compensation is exclusive of any applicable sales taxes and the Manager shall pay to the Issuer the amount of any applicable sales taxes in addition to the Issuer Compensation.

The Issuer and the Manager agree that in respect of any month that the Issuer has an amount payable to the Manager under Section 5.4 in an amount that is not less than $10 (plus the amount of any applicable sales taxes on the Issuer Compensation), the Manager's obligation to pay the compensation to the Issuer under this Section will be fully satisfied by way of setting-off $10 (plus the amount of any applicable sales taxes on the Issuer Compensation) of the amount payable by the Issuer to the Manager under Section 5.4 against the Manager's amount payable to the Issuer under this Section.

5.6 Indemnification by Manager

The Manager agrees to indemnify, defend and hold harmless the Issuer from and against any and all liabilities which may be imposed on, incurred by or assessed against the Issuer as the result of any wilful misconduct or gross negligence by the Manager, its officers, employees or agents or any failure to comply with the standard of care required under Section 5.1, provided that the Manager will have the exclusive right to compromise or defend, through counsel selected and retained by the Manager, any such liabilities or related claims at its own expense, which

[4] **NTD**: Section 5.4 and the related defined terms are subject to finalization of the fee regulations.

decision will be binding upon the Issuer. It is, however, expressly understood that the Manager is not agreeing to indemnify or hold the Issuer harmless with respect to any of the following:

(a) payments due on Issuer Funding Obligations or other amounts borrowed;

(b) any breach or failure to perform on the part of any other third party under any Program Agreement;

(c) any claim arising out of the assessment of any tax or payments in lieu of tax by a taxing authority against the Issuer;

(d) any amount for which the Issuer agrees to indemnify the Manager hereunder;

(e) any liability of the Issuer accruing after the termination of this Agreement unless attributable to the actions or omissions of the Manager prior to such termination;

(f) any losses of the Issuer arising due to risks inherent in the Issuer Investment Interest; or

(g) any statements or certificates provided by the Issuer to the effect that

(i) any Funding Obligation is consistent with the Financing Plan, or

(ii) the estimated Finance Amount that would have become due and payable in any Reference Period is expected to align with the Fair Allocation Amount determined in respect of such Reference Period.

It is further understood that the Manager is not agreeing to indemnify or hold harmless the Issuer Trustee with respect to any liabilities resulting from the failure of the Issuer Trustee to satisfy the standard of care set out in the Declaration of Trust. Where the Manager has assumed total defense of a claim, it shall agree to ensure that any settlement of such claim does not include any form of admission of liability on the part of the Issuer Trustee (in its personal capacity).

The Manager agrees to indemnify, defend and hold harmless the Indenture Trustee from and against any and all liabilities which may be imposed on, incurred by or asserted against the Indenture Trustee as the result of any wilful misconduct or gross negligence relating to the maintenance and custody by the Manager, as custodian, of the Investment Interest Records; provided that (a) the Manager will have the exclusive right to compromise or defend, through counsel selected and retained by the Manager, any such liabilities or related claims at its own expense, which decision will be binding upon the Indenture Trustee and (b) the Manager shall not be liable for any portion of any liability resulting from the wilful misconduct, bad faith or gross negligence of the Indenture Trustee.

5.7 Contracting with Itself and Affiliates

In the exercise of its rights, duties and obligations, the Manager may, if it is acting in good faith, enter into, as Manager for the Issuer, agreements and other contracts to which the Manager, in its personal capacity, or an Affiliate of the Manager, is a party.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

6.1 Representations of the Issuer

The Issuer represents and warrants to the Manager that the execution, delivery and performance by the Issuer of this Agreement are within the powers of the Issuer and have been duly authorized by all necessary action on the part of the Issuer and do not contravene (i) the Program Agreements in effect on the date hereof or (ii) any law or contractual restriction binding on or affecting the Issuer and the Agreement is a legal, valid and binding obligation of the Issuer, enforceable against the Issuer.

6.2 Representations of the Manager

The Manager represents and warrants to the Issuer that (i) the execution, delivery and performance by the Manager of this Agreement are within the powers of the Manager and have been duly authorized by all necessary action on the part of the Manager and do not contravene any law or contractual restriction binding on or affecting the Manager and the Agreement is a legal, valid and binding obligation of the Manager enforceable against the Manager and (ii) it is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).

ARTICLE 7
TERMINATION AND RESIGNATION

7.1 Termination

The Manager shall not be entitled to resign as manager of the Issuer or to terminate this Agreement for so long as any Funding Obligations remain outstanding. The Manager's rights and obligations under this Agreement (other than under Sections 5.3, 5.4, 5.6 and 8.3) will terminate, if the Manager receives a termination notice from (i) the Issuer Trustee, with the consent of the Indenture Trustee, or (ii) the Indenture Trustee, subject to the terms and conditions of the Indenture, in each case, on the 30th day after receipt of such notice. Notwithstanding the foregoing, no termination shall be effective until a replacement manager that satisfies the Rating Agency Condition has been approved and has entered into a management agreement whereby the replacement manager agrees to assume, in substance, the obligations of the Manager hereunder. Upon the termination of its rights and obligations under this Agreement, the Manager will notify the Rating Agencies and, promptly and upon the request of the Issuer, deliver to the Issuer all records (including Investment Interest Records) in the possession of the Manager relating to the performance of its services hereunder.

ARTICLE 8
MISCELLANEOUS

8.1 Appointment of Manager as Attorney-in-Fact

Subject to any Program Agreement, the Issuer hereby irrevocably appoints the Manager as the Issuer's attorney-in-fact during the term of this Agreement, with full authority in the place and stead of and in the name of the Issuer or otherwise, including full power of substitution, from time to time in the Manager's discretion or as required by this Agreement, to take such actions on behalf of the Issuer as the Manager may deem necessary or advisable to comply with or effect the purposes of this Agreement and any Program Agreement including, without limitation, to execute any documents, instruments or certificates in connection therewith, to ask, demand, collect, sue for, recover, compound, receive and give acquittances and receipts for monies due or becoming due to the Issuer or otherwise owed thereto, to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection therewith, and to file any claims or take any action or institute any proceedings which the Manager may deem necessary or desirable for the collection thereof, or to enforce compliance with the terms and conditions of any Program Agreement.

8.2 Amendments and Waivers

(a) Subject to Section 8.2(b), this Agreement may be amended, supplemented, modified, restated or replaced from time to time by written instrument signed by the Issuer and the Manager. The Manager will forthwith after the execution of any such instrument by the Issuer and the Manager provide the Rating Agencies with a copy of such instrument.

(b) No provision of this Agreement may be amended, supplemented, modified, restated or replaced in any material respect without first obtaining the written consent of the Indenture Trustee in accordance with the Indenture and such amendment, supplement, modification or replacement will only be effective if the Rating Agency Condition has been satisfied.

(c) No waiver of any provision of this Agreement, nor consent to any departure by any party therefrom, shall in any event be effective unless the same shall be in writing and signed by such party and such waiver or consent, if material, will only be effective if the Rating Agency Condition has been satisfied, and then said waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of any party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof.

8.3 Withholding Rights

The parties hereto shall be entitled to deduct and withhold from amounts payable under this Agreement such amounts as each is required to deduct and withhold with respect to such payment under the *Income Tax Act* (Canada) or any provision of any applicable federal, provincial, territorial, state, local or foreign tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes as having been paid to the recipient of the payment in

respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted in accordance with applicable law to the appropriate taxing authority.

8.4 No Petition

The Manager hereby agrees that it will not, prior to the date that is one year and one day after the termination of the Indenture and payment in full of the Issuer Funding Obligations and any other amounts owed under the Indenture, institute or encourage against the Issuer, or join or acquiesce in any institution against the Issuer of, any bankruptcy, reorganization, arrangement, insolvency, winding-up or liquidation proceedings, or other proceedings under any federal or provincial bankruptcy, insolvency or similar law in connection with any obligations relating to this Agreement or any of the other Program Agreements. The foregoing shall not limit the rights of the Manager to file any claim in or otherwise take any action with respect to any insolvency proceeding that was instituted against the Issuer by any Person other than the Manager.

8.5 Notice

All demands, notices and communications hereunder will be in writing (unless otherwise expressly provided herein) and will be personally delivered or transmitted electronically to:

(a) in the case of the Issuer:

■
■
■
■

Email: ■
Attention: ■

(b) in the case of the Manager:

Ontario Power Generation Inc.
700 University Avenue
Toronto, Ontario
M5G 1X6

Email: ■
Attention: ■

or such other address or email address as may hereafter by furnished to each of the parties hereto in writing. Notices transmitted by facsimile will be deemed to have been received when delivered (with receipt confirmed).

8.6 Recourse to Issuer Trustee and the Issuer

Nothing contained herein will be deemed to cause the Issuer Trustee to be personally liable for any obligations of the Issuer hereunder, and the Manager will not seek any personal or deficiency judgment in respect of such obligations against the Issuer Trustee in its personal capacity; provided, however, that the foregoing will not in any way affect any rights that the Manager may have hereunder to (a) proceed against any Person with respect to the enforcement of any guarantee of, or collateral security for, payment of such obligations or (b) recover any funds, damages, expenses or costs as a result of fraud or misrepresentation by the Issuer Trustee in its personal capacity. The obligations hereunder are not binding upon the Issuer Trustee except in its capacity as trustee of the Issuer nor will resort be had to the property of the Issuer Trustee except where liability is expressly imposed on the Issuer Trustee in its personal capacity hereunder, but the Issuer Property will be bound hereby.

8.7 Severability

If one or more provision of this Agreement is for any reason whatever held invalid, such provision will be deemed severable from the remaining covenants, agreements and provisions of this Agreement and will in no way affect the validity or enforceability of such remaining provisions or the rights of any parties hereto.

8.8 Execution of Counterparts; Electronic Delivery

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

8.9 Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

8.10 Grant of Security Interest to Indenture Trustee

The Manager hereby acknowledges and consents to any mortgage, pledge, assignment and grant of a security interest by the Issuer to the Indenture Trustee for the benefit of the Specified Creditors pursuant to the Indenture of any or all of the Issuer's rights hereunder.

[Remainder of page intentionally left blank.]

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.

[FINANCING ENTITY], by its sole trustee ■
as Issuer

By: _____
Name:
Title:

By: _____
Name:
Title:

ONTARIO POWER GENERATION INC.
as Manager

By: _____
Name:
Title:

By: _____
Name:
Title:

ACKNOWLEDGED AND ACCEPTED:

■
as Indenture Trustee

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A

[NTD: Subject to finalization of the fee regulations.]

EXHIBIT A

ANNUAL COMPLIANCE CERTIFICATE

TO: ■, (the "**Issuer Trustee**") in its capacity as issuer trustee of ■ (the "**Issuer**")

Ontario Power Generation Inc., as manager (the "**Manager**") appointed by the Issuer Trustee under the Management Agreement dated ■, 2017 between the Issuer Trustee and the Manager, and acknowledged and accepted by the Indenture Trustee (as amended, supplement, modified, restated or replaced from time to time, the "**Management Agreement**"), confirms, on behalf of the Issuer, the following:

(a) The books and records of the Issuer maintained by the Manager are current and accurate in all material respects.

(b) All debt obligations and expenses due and payable by the Issuer have been paid to date.

(c) All required filings with tax and regulatory authorities have been completed to date.

(d) All material statements and reports to be delivered by the Issuer under the Program Agreements have been delivered and all material statements and reports to be received by the Issuer under the Program Agreements have been received.

Capitalized terms used but not defined herein have the meanings given to them in the Management Agreement.

Dated this ■ day of ■, ■.

ONTARIO POWER GENERATION INC.
as Manager

By: _____
Name:
Title:

By: _____
Name:
Title:

[TRUST COMPANY]

as Issuer Trustee of

[FAIR HYDRO TRUST]

DECLARATION OF TRUST

Made as of **[■]**, 2017

TABLE OF CONTENTS

Page

ARTICLE 1 INTERPRETATION 1

1.1 Definitions 1
1.2 Interpretation 5
1.3 Accounting Principles 6
1.4 References to Acts of the Trust 6

ARTICLE 2 THE TRUST 6

2.1 Purpose and Activities of the Trust 6
2.2 Limitation on Certain Activities 7
2.3 Name and Head Office 8
2.4 Nature of the Trust 8
2.5 Rights of Unitholders 8

ARTICLE 3 UNITS 9

3.1 Nature of Units 9
3.2 Consideration of Units 9
3.3 No Pre-Emptive Rights 9
3.4 Fractional Units 9
3.5 Allotment and Issue 10
3.6 Prohibited Issuances and Transfers 10
3.7 Liability of Unitholders 11

ARTICLE 4 REDEMPTION OF UNITS 12

4.1 Redemption of Units 12

ARTICLE 5 RIGHTS AND POWERS OF ISSUER TRUSTEE 12

5.1 General Rights and Powers 12
5.2 Acquisition of Assets and Deposit of Funds 13
5.3 Legal Title and Custody 13
5.4 Disposition of Trust Property 13
5.5 Management of Trust Property 13
5.6 Power to Borrow Money and Issue Funding Obligations 14
5.7 Hedging Agreements 14
5.8 Execution of Instruments 14
5.9 Facsimile Signatures 15
5.10 Taxes 15
5.11 Collection 15
5.12 Expenses and Compensation of Issuer Trustee 16
5.13 Allocation 16
5.14 Fiscal Year and Form of Accounts 16
5.15 Power to Contract 17
5.16 Indemnification 18

TABLE OF CONTENTS
(continued)

Page

5.17 Further Powers 18
5.18 Auditors 18
5.19 Defect in Appointment 18
5.20 Status 18

ARTICLE 6 REPLACEMENT OF ISSUER TRUSTEE 19

6.1 Resignation of Issuer Trustee 19
6.2 Removal of Issuer Trustee 19
6.3 Vacancy 19
6.4 Appointment of New Issuer Trustee 20
6.5 Merger, Consolidation and Amalgamation 20
6.6 Vesting in Successor Issuer Trustee 20
6.7 Confidentiality 20
6.8 Right to Disclose 21

ARTICLE 7 STANDARD OF CARE, LIMITATION OF LIABILITY OF ISSUER TRUSTEE AND OTHER MATTERS 21

7.1 Standard of Care 21
7.2 Limitation of Liability of Issuer Trustee 21
7.3 Indemnification of the Issuer Trustee 22
7.4 Reliance upon Advice 22
7.5 Retain Experts 23
7.6 Reliance on Experts 23
7.7 Provisions Regarding Liability 23

ARTICLE 8 RECORDS 23

8.1 Records to be Kept 23
8.2 Segregation of Assets 23
8.3 Method of Keeping Records 24
8.4 Annual Financial Statements 24

ARTICLE 9 MEETINGS OF UNITHOLDERS AND DECISION OF UNITHOLDERS 24

9.1 Annual Meeting 24
9.2 Other Meetings 24
9.3 Quorum and Voting 24
9.4 Written Resolution 24

ARTICLE 10 AMENDMENT 25

10.1 Amendment 25
10.2 Automatic Amendment 25
10.3 Supplemental Declaration of Trust 25

TABLE OF CONTENTS
(continued)

Page

ARTICLE 11 DISTRIBUTION OF TRUST PROPERTY 26

11.1 Distributions 26
11.2 Allocation 27
11.3 Payment of Distributions 28
11.4 Legal Rights 29
11.5 Income Tax Matters 29
11.6 Designations 29
11.7 Withholding Taxes 29

ARTICLE 12 TERMINATION OF THE TRUST 29

12.1 Termination 29

ARTICLE 13 GENERAL 30

13.1 Irrevocability 30
13.2 Change of Office 30
13.3 Execution of Instruments 30
13.4 Manner of Giving Notice 30
13.5 Taxation Information 31
13.6 Severability 31
13.7 Governing Law 31
13.8 Language 31

THIS DECLARATION OF TRUST is made as of [■], 2017 by ■, a trust company established under the laws of **[Canada]** (the "**Issuer Trustee**").

WHEREAS the Government of Ontario has enacted the *Ontario Fair Hydro Act, 2017* (the "**Act**") for the purpose of, among other things, ensuring that clean energy costs and clean energy benefits (each as defined in the Act) are fairly allocated among present and future Specified Consumers (as defined below);

AND WHEREAS the Issuer Trustee has determined, at the request of OPG, to establish a Trust (as defined below) for the purpose of carrying on the activities of a financing entity (as defined in the Act) as hereinafter described for the benefit of the Unitholders (as defined below);

NOW THEREFORE the Issuer Trustee hereby declares that it holds in trust as trustee the sum of TEN DOLLARS ($10.00) now contributed by it and all property of every nature and kind which it may acquire in its capacity as trustee of the Trust, and all income therefrom, for the benefit of the Unitholders, in accordance with and subject to the provisions of this Declaration of Trust.

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Declaration of Trust, the following terms have the following meanings:

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

"**Administrative Agent**" means **[OPG]**, as Administrative Agent under the Administrative Services Agreement, or any successor Administrative Agent to the extent permitted under the Administrative Services Agreement.

"**Administrative Services Agreement**" means the administrative services agreement dated the date hereof between the Trust and the Administrative Agent pursuant to which the Administrative Agent will arrange for the provisions of certain services to the Trust.

"**Affiliate**" means, with respect to any specified Person, any other Person controlling, controlled by or under common control with such specified Person and, for the purposes of this definition, "**control**" means, in respect of any specified Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

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

"**Claim**" has the meaning ascribed thereto in Section 7.3.

"**Dealer**" means one or more Persons (other than the Issuer Trustee or the Manager) who have entered into an agreement with the Trust for the purpose of facilitating the sale and distribution of Funding Obligations.

"**Declaration of Trust**" means this declaration of trust.

"**Designated Beneficiary**" has the meaning ascribed thereto in section 3.6.

"**Eligible Investments**" means investments permitted to be made by the Trust under the Indenture.

"**Funding Obligation**" means a payment obligation incurred by or on behalf of the Trust to fund its ownership of an Investment Interest or a payment obligation that meets such other criteria as may be prescribed by the Regulations.

"**GAAP**" or "**generally accepted accounting principles**" means generally accepted accounting principles in Canada.

"**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.

"**Hedging Agreement**" means any agreement evidencing an interest rate swap transaction, forward rate transaction, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction or any other similar transaction or any combination of these transactions, in each case, entered into by the Trust in connection with or related to, and at the time of or prior to, the issuance of Funding Obligations or acquisition of Investment Interests by the Trust in accordance with and subject to the terms of the Program Agreements.

"**IESO**" means the Independent Electricity System Operator.

"**Income of the Trust**" for any taxation year of the Trust means the net income for the year determined pursuant to the provisions of the ITA having regard to the provisions thereof which relate to the calculation of income for the purposes of determining the "taxable income" of a trust, without reference to paragraph 82(1)(b) and subsection 104(6) thereof, less any non-capital losses of the Trust carried forward from prior taxation years that are deductible in the taxation year, and taking into account such other adjustments as may be determined in the discretion of the Issuer Trustee; provided, however, that capital gains and capital losses will be excluded from the computation of net income.

"**Indenture**" means the master trust indenture to be entered into between the Trust and the Indenture Trustee.

"**Indenture Trustee**" means ■, a trust company existing under the laws of Canada and duly authorized to carry on the business of a trust company in all of the provinces and

territories of Canada, as indenture trustee for the benefit of Specified Creditors under the Indenture.

"**Investment Interest**" has the meaning ascribed to the term "investment interest" in the Act.

"**Issuer Trustee**" means ■ and any successor thereto appointed pursuant to Article 6.

"**ITA**" means the *Income Tax Act* (Canada) and the regulations promulgated thereunder.

"**Management Agreement**" means the management agreement dated the date hereof between the Manager and the Trust.

"**Manager**" means OPG, in its capacity as manager appointed under the Management Agreement to administer the Investment Interests and perform such other duties assigned to it thereunder.

"**Master Transfer and Servicing Agreement**" means the master transfer and servicing agreement to be entered into by and between the Trust and the IESO, and acknowledged and accepted by the Indenture Trustee.

"**net realized capital gains of the Trust**" for any taxation year means the amount, if any, by which the aggregate amount of the realized capital gains of the Trust for the year, calculated in accordance with the provisions of the ITA, exceeds the aggregate of: (i) the aggregate amount of any realized capital losses of the Trust for the year, calculated in accordance with the provisions of the ITA; and (ii) the amount determined by the Issuer Trustee in respect of any net capital losses of the Trust carried forward from prior taxation years that are deductible in the taxation year; provided that in the discretion of the Issuer Trustee, the net realized capital gains of the Trust for a taxation year may be calculated without subtracting the full amount of the net capital losses of the Trust carried forward from prior years.

"**OPG**" means Ontario Power Generation Inc.

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

"**Program Agreements**" means the Indenture, each Supplemental Indenture, this Declaration of Trust, the Management Agreement, the Administrative Services Agreement, the Master Transfer and Servicing Agreement, each Transfer Notice, the **[Provincial Protections and Assurances Agreement]** and any hedging agreements, credit enhancement agreements, loan agreements, subordinated loan agreements, security agreements and Underwriting Agreements in effect at such time and all other documents and certificates delivered in connection therewith.

"**[Provincial Protections and Assurances Agreement]**" means the **[Provincial Protections and Assurances Agreement]** to be entered into between Her Majesty the

Queen in Right of Ontario, as represented by the Minister of Energy and the Minister of Finance, the Indenture Trustee and the Trust.

"**Rating Agencies**" means, at any time, the credit rating agencies which at the request of the Trust are rating the Funding Obligations at such time.

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

"**Records**" means all contracts, books, records and other documents and information, including, without limitation, data and information, including any stored on computer-related or other electronic media, computer programs, data processing software and related property and rights, maintained with respect to, but solely to, the assets of the Trust.

"**Regulations**" means the regulations promulgated under the Act.

"**Specified Consumer**" has the meaning ascribed to the term "specified consumer" in the Act.

"**Specified Creditors**" has the meaning ascribed thereto in the Indenture.

"**Supplemental Indenture**" means any supplemental indenture to the Indenture.

"**Transfer**" has the meaning ascribed to the term "transfer" in the Act.

"**Transfer Notice**" means a Transfer Notice in respect of a Transfer substantially in the form of Exhibit A to the Master Transfer and Servicing Agreement and delivered pursuant to such Program Agreement.

"**Trust**" means **[Fair Hydro Trust]**, a trust established under the laws of the Province of Ontario pursuant to this Declaration of Trust.

"**Trust Activities**" means the activities of the Trust described in Section 2.1.

"**Trust Company**" means a federally or provincially established trust company licensed to carry on business in all provinces and territories of Canada and which is resident in Canada for purposes of the ITA.

"**Trust Property**" means, as of any particular time, all assets of the Trust and all property, real, personal or otherwise, tangible or intangible, which have been transferred, conveyed or paid to, or acquired by the Trust, including all income, earnings, profits and gains therefrom, and which at such time are owned or held by the Trust.

"**Underwriting Agreement**" means any underwriting, agency or other agreement providing for the sale and distribution of Funding Obligations by one or more Dealers.

"**Unitholders**" means at any time, the holders at such time of one or more Units, and "**Unitholder**" means any such holder.[1]

"**Units**" means the units of beneficial interest of the Trust authorized and issued hereunder as such and for the time being outstanding and entitled to the benefits hereof.

1.2 Interpretation

In this Declaration of Trust, unless otherwise expressly stated or the context otherwise requires:

(a) references to "herein", "hereby", "hereunder", "hereof" and similar expressions are references to this Declaration of Trust and not to any particular Article or Section of this Declaration of Trust;

(b) references to an "Article" or "Section" are references to an Article or Section of this Declaration of Trust;

(c) words importing the singular shall include the plural and vice versa, and words importing gender shall include the masculine, feminine and neuter genders;

(d) the use of headings is for convenience of reference only and shall not affect the construction or interpretation hereof;

(e) the words "includes" and "including", when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather as referring to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement;

(f) references to any Person include such Person's successors and permitted assigns;

(g) any reference to a statute, regulation, policy, rule or instrument shall include, and shall be deemed to be a reference also to, all amendments made to such statute, regulation, policy, rule or instrument and to any statute, regulation, policy, rule or instrument that may be passed which has the effect of supplementing or superseding the statute, regulation, policy, rule or instrument so referred to;

(h) any reference to this Declaration of Trust or any other agreement, document or instrument shall be construed as a reference to this Declaration of Trust 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 or supplemented;

[1] Note: It is proposed that a single unit of the Trust will be issued to the Indenture Trustee (in addition to units to OPG or a subsidiary of OPG) in order to ensure that OPG or a subsidiary of OPG does not have the capability to cause the Trust to be wound-up.

(i) in the event that any day on which any amount is to be determined or any action is required to be taken hereunder is not a Business Day, then such amount shall be determined or such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day; and

(j) unless otherwise specified, all references to "$" or "dollars" are to lawful currency of Canada.

1.3 Accounting Principles

Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Declaration of Trust, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as the Issuer Trustee otherwise determines, be made in accordance with GAAP applied on a consistent basis.

1.4 References to Acts of the Trust

For greater certainty, where any reference is made in this Declaration of Trust to an act to be performed or not 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 by or with respect to either (i) the Trust; or (ii) the Issuer Trustee, such reference will be construed and applied for all purposes as if it referred to an act to be performed by or not, 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 by or with respect to, the Issuer Trustee in its capacity as trustee of the Trust, and not in any other capacity.

ARTICLE 2
THE TRUST

2.1 Purpose and Activities of the Trust

The purpose of the Trust is to establish and carry on activities for the exclusive benefit of the Unitholders and to distribute the Trust Property upon termination of those activities by the Trust in accordance with Article 11. The Trust is permitted to engage in any activity, undertaking, transaction or event authorized or permitted by the Act (the "**Trust Activities**"), including:

(a) issuing Units;

(b) redeeming Units;

(c) acquiring, owning, holding, administering or entering into agreements regarding the acquisition and servicing of Investment Interests, along with certain other related assets;

(d) managing, selling, assigning, pledging and collecting amounts due on or otherwise deal with Investment Interests and the other related assets to be so acquired in accordance with the terms of the Program Agreements;

(e) negotiating, authorizing, executing, delivering, assuming the obligations under, and performing its duties under, the Program Agreements and any other agreement or instrument or document relating to the activities set forth in clauses (c) and (d) above; provided, that the Trust shall be permitted to incur additional indebtedness or other liabilities payable to service providers and trade creditors in the ordinary course of business in connection with the foregoing activities;

(f) filing with any applicable securities commission one or more prospectuses, offering memoranda or registration statements, and filing such applications, reports, irrevocable consents, appointments of attorney for service of process and other papers and documents necessary or desirable to register one or more series of Funding Obligations under the securities laws of any applicable jurisdiction;

(g) authorizing, executing, delivering, issuing and registering one or more series of Funding Obligations;

(h) making payments on the Funding Obligations;

(i) pledging its interest in Investment Interests and related assets to the Indenture Trustee in order to secure the Funding Obligations; and

(j) engaging in any lawful act or activity and exercise any powers permitted to trusts formed under the laws of the Province of Ontario that, in each case, are incidental to, or necessary, suitable or convenient for the accomplishment of the above-mentioned purposes.

The Trust shall engage only in any activities related to the foregoing purposes or required or authorized by the terms of the Program Agreements or other agreements referenced above.

2.2 Limitation on Certain Activities

Notwithstanding any other provision of this Declaration of Trust, the Administrative Services Agreement or the Management Agreement, at any time that any Funding Obligations remain outstanding, the consent of the Indenture Trustee shall be required for the Trust to:

(a) take any action to wind-up or dissolve the Trust; or

(b) institute any voluntary proceedings to be adjudicated bankrupt or insolvent, or consent to the institution of any bankruptcy or insolvency proceedings against it, or file a petition seeking or consent to any assignment, petition, application or proceeding under any applicable bankruptcy or insolvency law, or consent to the appointment of a receiver, liquidator, assignee, trustee or other similar official of the Trust or a substantial part of its property, or make any assignment for the benefit

of creditors, or admit in writing its inability to pay its debts generally as they become due, or take any similar action in respect of the Trust.

2.3 Name and Head Office

The English form of the name of the Trust is **["■"]** and the French form of the name of the Trust is **["■"]**. The Trust may use and may be legally designated by either the English form or the French form of its name. Should the Issuer Trustee determine that the use of such name is not practicable, legal or convenient, it may use such other designation or adopt such other name for the Trust as it deems proper and the Trust may hold property and conduct the Trust Activities under such other designation or name. The head office, chief executive office, chief place of business and situs of administration of the Trust will initially be situated at the offices of the Issuer Trustee situated at **[*address of Issuer Trustee*]**.

2.4 Nature of the Trust

The Trust is an unincorporated open-ended unit trust established for the purposes specified in Section 2.1. The Trust shall be governed by the general law of trusts, except as such general law of trusts has been or is from time to time modified, altered or abridged for the Trust by:

(a) applicable laws and regulations or other requirements imposed by applicable securities or other regulatory authorities, including the Act and Regulations; and

(b) the terms, conditions and trusts set forth in this Declaration of Trust.

The beneficial interest and rights generally of the Unitholders in the Trust shall be limited to the right to participate in distributions when and as declared by the Issuer Trustee and distributions upon the termination of the Trust. The Trust is not and is not intended to be, shall not be deemed to be and shall not be treated as a general partnership, limited partnership, syndicate, association, joint venture, company, corporation or joint stock company nor shall the Issuer Trustee or the Unitholders or any of them for any purpose be, or be deemed to be treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The Issuer Trustee shall not be, or be deemed to be, an agent of the Unitholders. The relationship of the Unitholders to the Issuer Trustee, to the Trust and to the Trust Property shall be solely that of beneficiaries in accordance with this Declaration of Trust.

2.5 Rights of Unitholders

No Unitholder shall be entitled to call for any partition or division of the Trust Property or for a distribution of any particular asset forming part of the Trust Property or of any particular monies or funds received by the Issuer Trustee. The legal ownership of the Trust Property and the right to conduct the activities of the Trust are vested exclusively in the Issuer Trustee, and no Unitholder has or is deemed to have any right of ownership in any of the Trust Property, except as specifically provided herein. Except as specifically provided herein, no Unitholder or Unitholders shall be entitled to interfere with or give any direction to the Issuer Trustee with respect to the affairs of the Trust or in connection with the exercise of any powers or authorities conferred upon the Issuer Trustee under this Declaration of Trust. The Units shall be personal property and shall

confer upon the holders thereof only the interest and rights, and impose upon the holders thereof only those liabilities and obligations, specifically set forth in this Declaration of Trust.

ARTICLE 3
UNITS

3.1 Nature of Units

The beneficial interests in the Trust shall be divided into a single class of Units. Each Unit represents an equal undivided beneficial interest in any distributions by the Trust, whether of Income of the Trust (other than Income of the Trust allocated and distributed to redeeming Unitholders), net realized capital gains of the Trust (other than net realized capital gains of the Trust allocated and distributed to redeeming Unitholders), or other amounts, and, in the event of termination or winding up of the Trust, in the net assets of the Trust remaining after satisfaction of all liabilities. All Units rank equally among themselves and rateably without discrimination, preference or priority. Each Unit will entitle the Unitholder of record thereof to one vote at all meetings of the Unitholders or in respect of any written resolution of the Unitholders. Each Unit, when issued, shall vest indefeasibly in the holder thereof.

The number of Units which the Trust may issue is unlimited. The issued and outstanding Units may be subdivided or consolidated from time to time by the Issuer Trustee without notice to or approval of the Unitholders. Unless the Issuer Trustee determines otherwise, immediately after any *pro rata* issuance of additional Units to all Unitholders pursuant to subsection 11.3(3), the number of outstanding Units will automatically be consolidated such that each such holder will hold after the consolidation the same number of Units as such holder held before the issuance of additional Units.

3.2 Consideration of Units

A Unit will not be fully paid until the consideration therefor has been received in full by or on behalf of the Trust. The consideration for any Unit will be paid in money or in property (including, without limitation, a debt instrument issued to the Trust) or in past services received by the Trust that are not less in value than the fair equivalent of the money that the Trust would have received if the Unit had been issued for money. In determining whether property or past services are the fair equivalent of consideration paid in money, the Issuer Trustee may take into account reasonable charges and expenses of organization and reorganization and payments for property and past services reasonably expected to benefit the Trust. In no case will a Unit be issued to a Designated Beneficiary.

3.3 No Pre-Emptive Rights

No Person shall be entitled, as a matter of right, to subscribe for or purchase any Units of the Trust. There are no pre-emptive rights attaching to the Units.

3.4 Fractional Units

If as a result of any act of the Issuer Trustee hereunder, any Person becomes entitled to a fraction of a Unit, such Person will not be entitled to receive a certificate therefor. Fractional Units

will not, except to the extent that they may represent in the aggregate one or more whole Units, entitle the holders thereof to notice of or to attend or to vote at meetings of the Unitholders. Subject to the foregoing, such fractional Units will have attached thereto the rights, restrictions, conditions and limitations attaching to whole Units in the proportion that they bear to a whole Unit.

3.5 Allotment and Issue

Subject to Section 3.6, the Issuer Trustee may allot and issue Units at such time or times and in such manner (including pursuant to any plan from time to time in effect relating to reinvestment by the Unitholders of distributions of the Trust in Units) and to such Person, Persons or class of Persons as the Issuer Trustee in its sole discretion will determine. The price or the value of the consideration for which Units may be issued and the terms and conditions of issuance of the Units will be determined by the Issuer Trustee in its sole discretion. Not restricting the generality of the foregoing, the Issuer Trustee may accept amounts received from a Unitholder as a prepayment in respect of the obligation of the Unitholder to pay all or any part of the subscription price of Units to be issued at a later date by the Issuer Trustee. In such circumstances, such prepayment will form part of the Trust Property. In the event that Units are issued in whole or in part for a consideration other than money, the resolution of the Issuer Trustee allotting and issuing such Units will express the fair equivalent in money of the other consideration received.

3.6 Prohibited Issuances and Transfers

(1) Notwithstanding any other provision in this Declaration of Trust, at no time, may Units be issued or transferred to a Person who would be a "designated beneficiary" within the meaning of Part XII.2 of the ITA ("**Designated Beneficiary**"), and the Issuer Trustee will not accept a subscription for Units from, or issue or register a transfer of Units to, a Person unless the Person provides a declaration to the Issuer Trustee that it would not be a Designated Beneficiary and covenants to maintain such representation true for as long as it continues to hold one or more Units. If, notwithstanding the foregoing, the Issuer Trustee determines that a Person has purported to become or remain a Unitholder in breach of the above mentioned declaration or covenant, or if the Unitholder fails to provide, upon request, a declaration in form and content satisfactory to the Issuer Trustee that it is not a Designated Beneficiary, (i) the Issuer Trustee will require such Person to dispose of the Units within a specified period not to exceed 60 days to a Person who does not contravene the above mentioned limitation on ownership ("**New Holder**"), and (ii) effective immediately prior to the breach, such Person will be deemed to have ceased to be a holder of such Units, the voting and distribution rights attached to such Units will be suspended and such Units will be deemed not to be outstanding until acquired by a New Holder (provided that holders of other Units will not be entitled to any portion of the distributions that may have been paid in respect of Units that have been so deemed not to be outstanding) and such Person's rights in respect of such Units will be limited to receiving the net proceeds of the sale thereof. If such Person has not, within such period, sold such Units or provided the Issuer Trustee with a declaration in form and content satisfactory to the Issuer Trustee that it is not a Designated Beneficiary, the Issuer Trustee may sell such Units on behalf of such Person (and the Issuer Trustee will have the power of attorney of such Person to do so), and such Person's rights in respect of such Units will be limited to receiving the net proceeds of sale upon surrender of the certificates representing such Units.

(2) Subject to this section 3.6, and until the Issuer Trustee will have been required to do so under the terms hereof, the Issuer Trustee will not be bound to do or take any proceeding or action with respect to this section 3.6 by virtue of the powers conferred on it hereby. The Issuer Trustee will have the sole right and authority to make any determination required for the administration of the provisions of, or contemplated under this section 3.6, and without limiting the generality of the foregoing, if the Issuer Trustee considers that there are reasonable grounds for believing that a contravention of the above mentioned limitation on ownership has occurred or may occur, the Issuer Trustee will make a determination with respect to the matter. Any such determination will be conclusive, final and binding for the purposes of this section 3.6 except to the extent modified by any subsequent determination by the Issuer Trustee. The Issuer Trustee may require declarations as to whether a Unitholder is a Designated Beneficiary or as to factual information that will enable the Issuer Trustee to determine whether a Unitholder or a prospective transferee of a Unit may be a Designated Beneficiary. In any situation where it is unclear whether Units may be held by a Person who may be a Designated Beneficiary, the Issuer Trustee may exercise its discretion in determining whether such Person is or is not a Designated Beneficiary, and any such exercise by it of its discretion will be binding for the purposes of this section 3.6.

3.7 Liability of Unitholders

No Unitholder of the Trust, in its capacity as such, will incur or be subject to any liability, direct or indirect, absolute or contingent, in contract or in tort or of any other kind, to any Person in connection with: (i) the Trust Property or the ownership, use, operation, acquisition or disposition thereof or exercise or enjoyment of the rights, privileges, conditions or benefits attached thereto, associated therewith or derived therefrom; (ii) the obligations, liabilities, activities or affairs of the Trust; (iii) any actual or alleged act or omission of the Issuer Trustee or any other Person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); (iv) any actual or alleged act or omission of the Issuer Trustee or any other Person in the performance or exercise, or purported or attempted performance or exercise, of any obligation, power, discretion or authority conferred upon the Issuer Trustee or such other Person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); (v) any transaction entered into by the Issuer Trustee or by any other Person in respect of the activities or affairs of the Trust (whether or not authorized by or pursuant to this Declaration of Trust); or (vi) any taxes, levies, imposts or charges or fines, penalties or interest in respect thereof payable by the Trust or by the Issuer Trustee or by any other Person (except the Unitholders to the extent required by applicable tax laws) on behalf of or in connection with the activities or affairs of the Trust. No Unitholder will be liable to indemnify the Issuer Trustee or any other Person with respect to any such liability or liabilities incurred by the Issuer Trustee or by any such other Person or Persons or with respect to any taxes payable by the Trust or by the Issuer Trustee or any other Person on behalf of or in connection with the Trust. To the extent that any such liabilities of the Unitholders may arise, they will be enforceable only against, and will be satisfied only out of, the Trust Property to the full extent of such liability and the costs of any litigation or other proceedings in which such liability will have been determined, including without limitation, the fees and disbursements of counsel.

ARTICLE 4
REDEMPTION OF UNITS

4.1 Redemption of Units

Each Unitholder will be entitled to require the Trust to redeem at any time and from time to time at the demand of such Unitholder all or any part of the Units held by such Unitholder as follows:

(1) The Unitholder will give notice in writing to the Trust at its head office of its intention to redeem Units and the number of Units to be redeemed.

(2) Upon receipt by the Trust of such notice from the Unitholder to redeem Units, the Unitholder will be entitled to receive, subject to subsection 4.1(3), an amount equal to the fair market value (the "**Redemption Price**") of such Units established by the Issuer Trustee, acting reasonably (which, for greater certainty, will not necessarily be net asset value), payable by certified cheque or via wire transfer of funds.

(3) In the event that the Trust has insufficient funds to make the payment required pursuant to subsection 4.1(2) or such payment is restricted under the terms of the Indenture, the Trust will, subject to compliance with any regulatory requirements, distribute to the redeeming Unitholder *in specie* a proportionate amount of the Trust Property, the fair market value of which, as determined by the Issuer Trustee, acting reasonably, is equal to the Redemption Price.

(4) Upon satisfaction of the Redemption Price, the redeeming Unitholder will not be entitled to any rights or benefits, including voting and the right to receive distributions, in connection with the Units redeemed.

(5) On redemption of a Unit, the Issuer Trustee may designate and pay to the redeeming Unitholder as part of, and not in addition to, the Redemption Price, such part of the net realized capital gains of the Trust and/or Income of the Trust as is realized by the Trust in order to fund the Redemption Price.

ARTICLE 5
RIGHTS AND POWERS OF ISSUER TRUSTEE

5.1 General Rights and Powers

Subject to the specific restrictions and limitations set forth in this Declaration of Trust and notwithstanding the provisions of the *Trustee Act* (Ontario) or any other similar legislation in any jurisdiction, the Issuer Trustee will have, without the necessity of authorization by, and free from any power or control on the part of, the Unitholders, full, exclusive and absolute power, control and authority over the Trust Property and the Trust Activities to the same extent as if the Issuer Trustee were the sole and absolute owner thereof in its own right including, without limitation, such power, control and authority to do all such acts and things as in its sole judgment and discretion are necessary, incidental or desirable for carrying on the Trust Activities in accordance with the Program Agreements with such powers of delegation as may be permitted by this

Declaration of Trust, including the right, power and authority to amend this Declaration of Trust subject to and in accordance with the terms hereof and to appoint, employ or contract with any Person as the Issuer Trustee may deem necessary, appropriate or desirable for the transaction of the Trust Activities, including for the administration of the Trust. For greater certainty, the powers of the Issuer Trustee that may be exercised as aforesaid include the powers set forth in Section 5.2 to and including Section 5.18. The enumeration of any specific power or authority in this Declaration of Trust will not be construed as limiting the aforesaid power or authority or any other specific power or authority. Subject only to the express limitations contained in this Declaration of Trust, every discretion or power hereby conferred on the Issuer Trustee is an absolute and uncontrolled discretion or power.

5.2 Acquisition of Assets and Deposit of Funds

Subject to Section 2.1, the Issuer Trustee will have the power to acquire Investment Interests in accordance with the Program Agreements. Subject to compliance with the terms of the Program Agreements, the Issuer Trustee will have the power to deposit any money forming part of the Trust Property with any bank (which bank may be an Affiliate of the Issuer Trustee) licensed under the laws of Canada or any trust company (which includes the Issuer Trustee) licensed under the laws of any province of Canada and to withdraw such deposits in accordance with the Program Agreements. The Issuer Trustee will have no liability for any loss which may occur by reason of the failure of any depository with whom such money has been deposited or for the depreciation of any investment.

5.3 Legal Title and Custody

The Issuer Trustee will have the power to cause any and all Trust Property to be held by and/or registered in the name of any Person.

5.4 Disposition of Trust Property

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to sell, convey, transfer and assign all Trust Property free and clear of any and all trusts hereby established, at public or private sale, for cash or on terms, with or without advertisement and subject to such restrictions, stipulations, agreements and reservations as it may deem proper.

5.5 Management of Trust Property

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to own, manage, use, invest and hold the Trust Property (including, without limitation, the power to make investments in Eligible Investments) and to enter into agreements in respect of the Trust Property or its use including, without limitation, agreements to modify, amend, extend, renew or terminate any grant or agreement relating to the Trust Property and to waive compliance with any of the terms and conditions thereof, all, in each case, without the approval of or notice to the Unitholders.

5.6 Power to Borrow Money and Issue Funding Obligations

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to:

(a) borrow or in any other manner raise money and to evidence the same by the issuance of Funding Obligations, by private placement, public offering or otherwise;

(b) reacquire or redeem Funding Obligations;

(c) execute and deliver any trust indenture or supplement thereto, security agreement, mortgage, pledge, hypothec, assignment or other instrument to secure Funding Obligations, and amendments, modifications, restatements or replacements thereof, whether by fixed or floating charge or by assignment or by the granting of a security interest, free and clear of any and all trusts hereby established and, in lieu of or in addition to granting any security, to grant to any Person a negative pledge whereby the Issuer Trustee agrees not to encumber any Trust Property and such other covenants as may be consistent with those set out in the Program Agreements or as may otherwise be specified by any applicable Rating Agency in accordance with the foregoing; and

(d) execute and/or deliver any agreement, instrument, certificate, direction or other document necessary or desirable in order to permit or give effect to the provisions of this Section 5.6, including, without limitation, prospectuses, offering memoranda, regulatory filings, dealer agreements, Underwriting Agreements, subscription agreements, letters of representation, consent letters, and any instruments ancillary thereto.

5.7 Hedging Agreements

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to enter into Hedging Agreements in connection with or related to the borrowing or other raising of money by the Issuer Trustee or the purchase or ownership of Investment Interests, provided that such Hedging Agreements may be entered into only at or prior to the time that such securities are sold, or such borrowing, other raising of money or purchase takes place, as applicable, or as otherwise expressly permitted in the Management Agreement; provided, however, that amendments, modifications or novations of or to a Hedging Agreement may be entered into at any time after the original Hedging Agreement was executed.

5.8 Execution of Instruments

Every deed, transfer, assignment, hypothec, agreement, certificate, direction, instrument, prospectus, or any other document which is necessary or desirable to be executed by the Trust, including, without limitation, any document evidencing Funding Obligations or relating to the issuance of Funding Obligations, will be signed on behalf of the Trust by the Issuer Trustee or its duly appointed agent, including the Administrative Agent or the Manager.

5.9 Facsimile Signatures

The Issuer Trustee may authorize the use of facsimile signatures on the documents evidencing Funding Obligations, provided, however, that where facsimile signatures are so used, documents evidencing Funding Obligations will be manually countersigned or certified by a transfer agent, trustee, registrar or similar Person. If a Funding Obligation contains a printed or mechanically reproduced signature of a Person, the Issuer Trustee may issue the Funding Obligation notwithstanding that the Person has ceased to be a director, officer or signing officer of the Issuer Trustee, and the Funding Obligation will be as valid as if the Person were a director, an officer or a signing officer at the date of its issue.

5.10 Taxes

The Issuer Trustee will have the power to pay all taxes or assessments of whatever kind or nature imposed upon the Issuer Trustee and/or the Trust in connection with the Trust Property or the Trust Activities or upon or against the income from the Trust Activities or any part thereof, to settle and compromise disputed tax liabilities and, for the foregoing purposes, to make such returns and do all such other acts and things as may be deemed by the Issuer Trustee necessary or desirable. The Issuer Trustee will have the power to deduct and remit any taxes which are required by law to be deducted and remitted from any payment made by the Issuer Trustee under any Program Agreements or otherwise.

5.11 Collection

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to:

(a) collect, receive, give receipts for and sue for all sums of money or other property due to the Trust;

(b) consent to extensions of time for payment of, or the renewal of, any securities or obligations of the Trust;

(c) engage or intervene in, prosecute, defend, compound, compromise, abandon or adjust by arbitration or otherwise deal with or settle any actions, suits, proceedings, disputes, claims, demands or things relating to the Trust Property or the Trust Activities;

(d) exercise any and all remedies available to it under any Program Agreements or otherwise, including any power of foreclosure or sale available to the Issuer Trustee at law or pursuant to any agreement and, in connection with any such foreclosure or sale, to purchase or otherwise acquire title to any property and to convey good title thereto free of any and all trusts hereby established, or to take or retake possession of any property secured or unsecured thereunder or such other security;

(e) extend the time, with or without security, for the payment or delivery of any debts or property and to execute and enter into releases, agreements and other instruments; and

(f) pay or satisfy any debts or claims upon any evidence that the Issuer Trustee determines to be sufficient.

5.12 Expenses and Compensation of Issuer Trustee

(a) The Issuer Trustee will have the power to incur and make payment of any charges or expenses which in the opinion of the Issuer Trustee are necessary or incidental to or proper for carrying out any of the purposes of this Declaration of Trust and the Trust Activities, and to pay appropriate compensation or fees from the Trust Property to Persons with whom the Trust has contracted or transacted business including, without limitation, any charges, expenses, compensation or fees payable under or in connection with the Program Agreements.

(b) The Issuer Trustee will be entitled to be paid from the funds of the Trust, without any requirement of a passing of accounts in respect thereof or approval of the Unitholders, such fees as the Issuer Trustee and the Manager may agree to from time to time for its services hereunder and all reasonable expenses, disbursements and advances incurred or made by the Issuer Trustee in the administration or execution of the trusts hereby created (including the reasonable compensation and the disbursements of its counsel and all other advisers and assistants not regularly in its employ) until all the duties of the Issuer Trustee under the trusts hereby created shall be finally and fully performed, except any such expense, disbursement or advance as may arise from or in connection with the dishonesty, bad faith, wilful misconduct, negligence or reckless disregard of any duty or the failure to comply with the standard of care referred to in Section 7.1 by the Issuer Trustee, its officers, employees or agents. All such amounts will be payable at such times as the Issuer Trustee and the Manager may agree from time to time. Any amount not paid when due shall bear interest at a rate per annum equal to the rate designated by the Issuer Trustee as the then current rate charged by the Issuer Trustee or its successors from time to time to its corporate customers, payable on demand. After default and unless otherwise provided in the Indenture and any documents contemplated thereunder, all amounts so payable and the interest thereon shall be payable out of any funds coming into the possession of the Issuer Trustee or its successors in the trusts hereunder in priority to any payments to other Specified Creditors.

5.13 Allocation

The Issuer Trustee will have the power to determine conclusively whether money or other assets received by the Trust or expenses or disbursements made by the Trust will be charged or credited to income or capital or allocated between income and capital, provided, however, that such determination will not be inconsistent with calculation of income in accordance with the ITA at the time the determination is made.

5.14 Fiscal Year and Form of Accounts

The fiscal year of the Trust will end on December 31. The Issuer Trustee will have the power to determine and from time to time change the method or form in which the accounts of the

Trust will be kept, provided such method or form reasonably complies with Canadian generally accepted accounting principles as applicable from time to time.

5.15 Power to Contract

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to appoint, employ or contract with any Person as the Issuer Trustee may deem necessary or desirable for the transaction of the Trust Activities and may transfer assets to such Person and, save and except for such matters as are listed in Section 2.2, delegate to such Person any or all of the discretionary powers given to the Issuer Trustee with respect to the management of the Trust Property. Without in any way limiting the generality of the foregoing, the Issuer Trustee will have the power to:

(a) enter into, execute, deliver, perform the obligations of the Trust under, and grant security as provided for in, the Program Agreements;

(b) appoint, employ or contract with the Manager or the Administrative Agent or any other Person who, under the supervision of the Manager or Administrative Agent, may, among other things: (i) furnish and supervise or cause to be furnished and supervised the performance of the clerical and administrative services necessary to the administration of the Trust and the Trust Property including, without limitation, the provision of office space, office equipment and personnel for the performance of such services, property management, administration and servicing, the maintenance of documents, books and Records for the Trust (including those described in Section 8.1), the receipt and disbursement of Trust Property, the servicing and payment of debt and other obligations and generally all matters relating to the obtaining of and the administration and servicing of Trust Property, including, without limitation, as provided in the Administrative Services Agreement or Management Agreement; (ii) serve as an advisor to the Issuer Trustee, furnish reports to the Issuer Trustee and provide research, economic and statistical data in connection with the Trust Activities; (iii) act as consultant, accountant, correspondent, lender, technical advisor, counsel, broker and dealer, underwriter, fiscal agent, corporate fiduciary, escrow agent, depository, custodian or agent for collection from obligors, loan administrator, appraiser, bank, insurer or insurance agent, transfer agent or registrar or issuing and paying agent for Funding Obligations or in any other capacity deemed by the Issuer Trustee necessary or desirable; (iv) act as attorney or agent in the purchase or sale or other disposition of the Trust Property or the property secured thereby and the handling, prosecution or settling of any claims of the Trust and assist in the performance of such functions necessary in the management of the Trust as may be agreed upon with the Issuer Trustee; and (v) execute and deliver the Program Agreements. For greater certainty, the appointment by the Issuer Trustee of the Administrative Agent under the Administrative Services Agreement and the Manager under the Management Agreement will, where applicable, be deemed to constitute adequate supervision by the Issuer Trustee for purposes of the *Trustee Act* (Ontario) and this Declaration of Trust of any Person thereby engaged in connection with the foregoing activities; and

(c) investigate, select and conduct negotiations with Persons acting in the capacities referred to in Section 5.15(b) and pay appropriate fees to, and enter into appropriate contracts with, employ or retain the services of, any of them in connection with the Trust Property or property secured thereby, other assets and any security related thereto funded, acquired, sold or otherwise disposed of, or committed, negotiated or contemplated to be funded, acquired, sold, or otherwise disposed of in connection with Funding Obligations.

5.16 Indemnification

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power to indemnify or enter into agreements with respect to indemnification with any Person with whom the Issuer Trustee or the Trust deals to such extent as the Issuer Trustee determines necessary or desirable.

5.17 Further Powers

Subject to Section 2.1, the Issuer Trustee will have the power to perform and do all such other acts and things and to execute itself (or have executed by any Person appointed by it pursuant to Section 5.15) all such deeds, transfers, assignments, hypothecs, agreements, certificates, directions, instruments or other documents whatsoever as it deems necessary, proper or desirable in order to carry on the Trust Activities in accordance with and subject to the Program Agreements notwithstanding that such acts, things, deeds, transfers, assignments, hypothecs, agreements, certificates, directions, instruments or other documents are not herein specifically mentioned. Any determination as to what is necessary, proper or desirable in order to carry on the Trust Activities in accordance with the Program Agreements or otherwise, provided it is made by the Issuer Trustee honestly and in good faith, will be conclusive. Any construction of this Declaration of Trust or the existence of any power or authority hereunder, made honestly and in good faith by the Issuer Trustee upon the advice of counsel, will be conclusive to the extent consistent with the law. In construing the provisions of this Declaration of Trust, there will be a presumption in favour of a grant of power to the Issuer Trustee.

5.18 Auditors

In accordance with and subject to the terms of the Program Agreements, the Issuer Trustee will have the power from time to time to select and appoint and discharge and reappoint an auditor of the Trust in its discretion and to negotiate and fix the fees of any such auditor.

5.19 Defect in Appointment

Notwithstanding anything to the contrary herein contained, no action taken by the Issuer Trustee will be invalid by reason only of any defect that is thereafter discovered in its appointment.

5.20 Status

The Issuer Trustee shall not have the status of bankrupt and shall be resident in Canada for purposes of the ITA.

ARTICLE 6
REPLACEMENT OF ISSUER TRUSTEE

6.1 Resignation of Issuer Trustee

(a) If the Issuer Trustee desires to resign and be discharged from the trusts and powers reposed in or conferred on it by this Declaration of Trust, it will provide 120 days written notice (or such shorter period of notice as the Unitholders , the Indenture Trustee and the Rating Agencies may agree to) thereof to the Unitholders, the Indenture Trustee and the Rating Agencies provided that no such voluntary resignation shall be effective until a replacement Issuer Trustee acceptable to the Unitholders and the Indenture Trustee has been appointed and has executed a written agreement whereby such replacement Issuer Trustee agrees to assume the obligations of the Issuer Trustee hereunder, under the Program Agreements and under any other contract pursuant to which the Issuer Trustee is obligated.

(b) The Issuer Trustee shall resign if a material conflict of interest arises in its role as a trustee under this Declaration of Trust that is not eliminated within 90 days after the Issuer Trustee becomes aware that it has such a material conflict of interest. Forthwith after the Issuer Trustee becomes aware that it has such a material conflict of interest, it shall provide the Unitholders, the Indenture Trustee and the Rating Agencies with written notice of the nature of such material conflict of interest. Upon such resignation, the Issuer Trustee shall (subject to Section 6.6) be discharged from its office under this Declaration of Trust. If, notwithstanding the foregoing provisions of this Section 6.1(b), the Issuer Trustee has such a material conflict of interest, the validity and enforceability of this Declaration of Trust and any agreement entered into by the Issuer Trustee shall not be affected in any manner whatsoever by reason only of the existence of such material conflict of interest. If the Issuer Trustee contravenes the foregoing provisions of this Section 6.1(b), the Unitholders, may apply, on notice to the Rating Agencies, to a court of competent jurisdiction for an order that the Issuer Trustee be replaced as Issuer Trustee hereunder.

6.2 Removal of Issuer Trustee

The Issuer Trustee may be removed from its office under this Declaration of Trust by the Unitholders, at any time by notice in writing delivered to the Issuer Trustee not less than 90 days prior to the date that such removal is to take effect.

6.3 Vacancy

In the event of the bankruptcy or insolvency of the Issuer Trustee or the inability of the Issuer Trustee to exercise its duties under this Declaration of Trust, the Unitholders may forthwith terminate the term of office of the Issuer Trustee as trustee and, in such instance, a vacancy will occur. No vacancy (including upon a resignation of the Issuer Trustee pursuant to Section 6.1(b)) shall operate to annul this Declaration of Trust or affect the continuity of the Trust or terminate

the appointment of the Administrative Agent under the Administrative Services Agreement or the Manager under the Management Agreement.

6.4 Appointment of New Issuer Trustee

If, pursuant to this Article 6, the Issuer Trustee resigns or a vacancy occurs in the office of the Issuer Trustee for any reason, the Unitholders may by instrument in writing appoint a Trust Company, which either (i) has risk-based capital of at least $50,000,000 or, in the case of an entity that is not subject to risk-based capital adequacy requirements, has a combined capital and surplus of at least $50,000,000; or (ii) has been approved in writing by each Rating Agency prior to its appointment by the Unitholders, in order to replace the Issuer Trustee. If the Unitholders fails to make such appointment within 60 days of the occurrence of any such resignation, removal or vacancy, then the Issuer Trustee may make an application, on notice to the Rating Agencies, to a court of competent jurisdiction to appoint a successor Issuer Trustee hereunder. If the Issuer Trustee elects not to make such an application, the Unitholders may do so on notice to the Rating Agencies. The expense of any act, document, deed or other instrument or thing required under this Section 6.4 will be satisfied from the Trust Property.

6.5 Merger, Consolidation and Amalgamation

Any company into which the Issuer Trustee may be merged or with which it may be consolidated or amalgamated, or any company resulting from any merger, consolidation or amalgamation to which the Issuer Trustee is a party or any company succeeding to the corporate trust business of the Issuer Trustee will be a successor Issuer Trustee under this Declaration of Trust without any further action on the part of the Issuer Trustee, provided that such company shall be a Trust Company.

6.6 Vesting in Successor Issuer Trustee

Any successor Issuer Trustee will become vested with all the estates, properties, rights, powers, duties, responsibilities and trusts of its predecessors in the trusts hereunder as if it had been originally named as Issuer Trustee pursuant to this Declaration of Trust. In furtherance of the foregoing, upon written request of the successor Issuer Trustee, the Issuer Trustee ceasing to act will do, make, execute, deliver or cause to be done, made, executed or delivered all such acts, documents, deeds or other instruments and things as may be necessary or desirable in order to more effectively assign, transfer and deliver to, and vest in, the successor Issuer Trustee, upon the trusts herein expressed, all the rights, powers and trusts of, and all property and money held by the Issuer Trustee so ceasing to act. The expense of any act, document, deed or other instrument or thing required under this Section 6.6 will be satisfied from the Trust Property.

6.7 Confidentiality

At all times (including, without limitation, at any time the Issuer Trustee should resign or be discharged from the trusts and powers reposed in or conferred on it by this Declaration of Trust), the Issuer Trustee (or the trustee so resigning and being discharged, as the case may be) will treat as confidential all information relating to the Trust, the Trust Activities and the transactions contemplated by the Program Agreements obtained by it in its capacity as Issuer Trustee.

6.8 Right to Disclose

The Issuer Trustee shall have the right to disclose any information disclosed or released to it if in the opinion of legal counsel to the Issuer Trustee it is required to disclose under any applicable laws, court order or directions of Governmental Authorities or if it is requested by a Rating Agency. The Issuer Trustee shall not be responsible or liable to any party for any loss or damage arising out of or in any way sustained or incurred or in any way relating to such disclosure.

ARTICLE 7
STANDARD OF CARE, LIMITATION OF LIABILITY OF ISSUER TRUSTEE AND OTHER MATTERS

7.1 Standard of Care

The Issuer Trustee will exercise its powers and carry out its obligations hereunder as Issuer Trustee honestly, in good faith and in the best interests of the Trust and the Unitholders and in connection therewith will exercise that degree of care, diligence and skill that a reasonably prudent Person would exercise in comparable circumstances. To the extent that the Issuer Trustee has delegated or subcontracted the performance of all or a portion of its duties to the Administrative Agent or Manager as contemplated by Section 5.15, it will be deemed to have satisfied the aforesaid standard of care. Unless otherwise required by law, the Issuer Trustee will not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Issuer Trustee will not be required to devote its entire time to the Trust Activities. For greater certainty, the entering into of any Program Agreement by the Trust and the performance by the Trust of its obligations thereunder will be deemed to be in the best interests of the Unitholders and the Trust.

7.2 Limitation of Liability of Issuer Trustee

The Issuer Trustee has entered into this Declaration of Trust solely in its capacity as trustee of the Trust and not in its personal capacity, and any and all of the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations made on the part of the Issuer Trustee herein are made and intended not as personal representations, warranties, undertakings, covenants, indemnities, agreements and other obligations by the Issuer Trustee or for the purpose or with the intention of binding the Issuer Trustee in its personal capacity, but are made and intended for the purpose of binding only the Trust Property or a specific portion thereof. No property or assets of the Issuer Trustee, whether owned beneficially by it in its personal capacity or otherwise (other than the Trust Property), will be subject to levy, execution or other enforcement procedures with regard to any of the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations of the Trust or the Issuer Trustee hereunder, and no recourse may be had or taken, directly or indirectly, against the Issuer Trustee in its personal capacity, any Unitholder or any Affiliate, shareholder, director, officer, representative, employee or agent of the Issuer Trustee or any predecessor or successor of the Issuer Trustee with regard to the representations, warranties, undertakings, covenants, indemnities, agreements and other obligations of the Trust or the Issuer Trustee hereunder; provided that the foregoing limitation will not apply in respect of any action or failure to act arising from or in connection with the wilful misconduct, negligence or the failure to comply with the standard of

care referred to in Section 7.1. Notwithstanding any other provision of this Article 7, but subject to the Indenture, each Specified Creditor is entitled to recourse to the Trust Property to satisfy in full the obligations of the Trust to it even if the Issuer Trustee has no right, or only an impaired right, to seek indemnification from the Trust Property or to apply the Trust Property in satisfaction of such obligations.

7.3 Indemnification of the Issuer Trustee

The Issuer Trustee, its directors, officers, agents, representatives and employees will at all times be indemnified and saved harmless out of the Trust Property from and against all claims (including any claim arising out of the assessment of any tax on income by a taxing authority), demands, levies, penalties, suits, losses, actions, causes of action, costs, charges, fees and expenses, damages and liabilities whatsoever, including, without limitation, those arising out of or related to actions taken or omitted to be taken by any agent of the Issuer Trustee, including, without limitation, the Administrative Agent or the Manager, as contemplated hereby, legal fees and disbursements on a substantial indemnity basis and costs and expenses incurred in connection with the enforcement of this indemnity (each, a "**Claim**"), which the Issuer Trustee, its directors, officers, representatives and employees may suffer or incur, whether at law or in equity, in any way caused by or arising, directly or indirectly, in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties as Issuer Trustee or which it sustains or incurs in or about or in relation to the Trust Property and the Trust Activities. Further, the Issuer Trustee will not be liable to the Trust, to any Unitholder or to any other Person for any loss or damage relating to any matter regarding the Trust, including any loss or diminution in the value of the Trust Property. The foregoing provisions of this Section 7.3 do not apply to the extent that in any circumstances there has been wilful misconduct, gross negligence or the failure to comply with standard of care referred to in Section 7.1 on the part of the Issuer Trustee, its directors, officers, agents, representatives or employees excluding the other parties to the Program Agreements. Notwithstanding any other provision hereof, this indemnity will survive the removal or resignation of the Issuer Trustee, the termination of this Declaration of Trust and the termination of any trust created hereby.

7.4 Reliance upon Advice

The Issuer Trustee may rely and act upon any statement, notice, report or opinion prepared by or any advice received from the Administrative Agent or the Manager or from the auditors, counsel or other professional advisors of the Issuer Trustee and will not be responsible or held liable for any loss or damage resulting from so relying or acting if the Issuer Trustee acted reasonably and in good faith relied upon the advice received and if the professional advisor was aware that the Issuer Trustee was receiving the advice in its capacity as Issuer Trustee. The Issuer Trustee is entitled to be reimbursed from the Trust Property for all costs, charges and expenses it incurs in connection with obtaining any such statement, notice, report, opinion or advice. The Issuer Trustee is entitled to rely and act upon the genuineness and authenticity of any writing submitted to it that it in good faith believes to be genuine.

7.5 Retain Experts

The Issuer Trustee may appoint such agents and employ or retain such counsel, accountants, engineers, appraisers or other experts or advisers as it may reasonably require for the purpose of discharging its duties hereunder and shall not be responsible for any misconduct on the part of any of them. The Issuer Trustee may pay remuneration out of the Trust Property for all services performed for it in the discharge of the trusts hereof without taxation for costs or fees of any counsel, solicitor or attorney.

7.6 Reliance on Experts

The Issuer Trustee may act and rely and shall be protected in acting in good faith on the opinion or advice of or information obtained from any agent, counsel, accountant, engineer, appraiser or other expert or adviser in relation to any matter arising in the performance of its duties under the Program Agreements.

7.7 Provisions Regarding Liability

Any written instrument creating an obligation of the Issuer Trustee will be conclusively deemed to have been executed by the Issuer Trustee only in its capacity as Issuer Trustee. Any written instrument creating an obligation of the Issuer Trustee will contain a provision to the effect that the obligations thereunder are not binding upon the Issuer Trustee except in its capacity as Issuer Trustee, nor will recourse be had to the property of the Issuer Trustee except in its capacity as Issuer Trustee, but that the Trust Property or a specific portion thereof only will be bound, and may at the request of the Issuer Trustee make specific provision to the foregoing effect and contain any further provisions which the Issuer Trustee may deem appropriate, but the omission of any such provisions will not operate to invalidate any such instrument or to impose liability on the Issuer Trustee, except as aforesaid. The Issuer Trustee shall not be required to expend or risk its own funds or otherwise incur financial liability in the performance of its duties hereunder.

ARTICLE 8
RECORDS

8.1 Records to be Kept

The Issuer Trustee will keep or cause to be kept at the head office of the Trust a copy of this Declaration of Trust, a register of Unitholders, minutes of meetings and resolutions of Unitholders, minutes of meetings and resolutions of the Issuer Trustee, and such Records as are by law or good business practice necessary. The Records may be kept at the office of any Person whom the Issuer Trustee has appointed to maintain the same, provided that the Issuer Trustee has access to the Records on one Business Day’s notice to such Person.

8.2 Segregation of Assets

The Issuer Trustee shall maintain the Trust Property separate from all other property in its possession.

8.3 Method of Keeping Records

Where this Declaration of Trust requires the Issuer Trustee to cause a Record to be kept, it may be kept in bound or loose-leaf form or by means of a mechanical, electronic or other device.

8.4 Annual Financial Statements

A copy of the annual financial statements of the Trust, signed by the Issuer Trustee, shall be mailed or otherwise made available within 120 days following the end of a fiscal year to which they relate to each Unitholder. The financial statements shall include all information required to be included in annual financial statements of the Trust by applicable laws.

ARTICLE 9
MEETINGS OF UNITHOLDERS AND DECISION OF UNITHOLDERS

9.1 Annual Meeting

There will not be an annual meeting of the Unitholders.

9.2 Other Meetings

The Issuer Trustee will have power at any time to call meetings of the Unitholders at such time and place as the Issuer Trustee may determine. Unitholders holding in the aggregate not less than a majority of the outstanding Units may requisition the Issuer Trustee in writing to call a meeting of the Unitholders for the purposes stated in the requisition. The requisition shall state in reasonable detail the business proposed to be transacted at the meeting and will be sent to the Issuer Trustee at the address of the Issuer Trustee. Upon receiving the requisition, the Issuer Trustee will call a meeting of the Unitholders to transact the business referred to in the requisition. If the Issuer Trustee does not within 10 days after receiving the requisition call a meeting, any Unitholder who signed the requisition may call the meeting.

9.3 Quorum and Voting

A quorum for any meeting of the Unitholders will be persons present being Unitholders or representing by proxy Unitholders who hold in the aggregate a majority of the total number of outstanding Units. Unitholders may attend and vote at all meetings of the Unitholders either in person or by proxy. Each Unit will be entitled to one vote at all meetings of the Unitholders. Any action to be taken by the Unitholders will, except as otherwise required by this Declaration of Trust, or by law, be authorized when approved by a majority of the votes cast at a meeting of the Unitholders. The chairman of any such meeting will not have a second or casting vote.

9.4 Written Resolution

Any business which may be conducted at a meeting of the Unitholders may be approved by a resolution in writing in lieu thereof. Notice of such resolution will be given to all Unitholders and approval of such resolution will be evidenced by the signature on any such resolution or counterpart thereof by the required percentage of Unitholders for the matter to be determined.

ARTICLE 10
AMENDMENT

10.1 Amendment

Subject to Section 2.1 and compliance with the terms of the applicable Program Agreements, the Issuer Trustee may, from time to time, amend, vary, supplement, replace or restate the provisions of this Declaration of Trust without the consent or approval of the Unitholders or any court as follows:

(a) to the extent deemed necessary by the Issuer Trustee in good faith to be necessary to ensure compliance with, or to remove any conflicts or other inconsistencies which may exist between any term of this Declaration of Trust and the provisions of, any applicable law in effect from time to time;

(b) to the extent deemed necessary by the Issuer Trustee in good faith to be necessary to make any change or correction in this Declaration of Trust which is a typographical change or correction or which the Issuer Trustee has been advised by legal counsel is required for the purpose of curing any ambiguity or defect or inconsistent provision or clerical omission or mistake or manifest error contained herein, or

(c) subject to the satisfaction of the Rating Agency Condition, to the extent deemed necessary or desirable in the sole discretion of the Issuer Trustee to permit or facilitate the carrying on of the Trust Activities, including the accommodation of requests made by the Rating Agencies or regulatory authorities in relation to the issuance of Funding Obligations.

However, any such amendment may be made only if it will not materially adversely affect the interest of any Unitholder, unless that Unitholder has also approved of the amendment in writing. The Issuer Trustee will immediately upon the entering into thereof, provide the Rating Agencies and the Indenture Trustee with a copy of any amendment, variation, supplement, replacement or restatement of this Declaration of Trust.

10.2 Automatic Amendment

Upon the Issuer Trustee ceasing to be a trustee of the Trust, this Declaration of Trust will be automatically amended to delete any reference to the name of the trustee so ceasing to be a trustee of the Trust and to substitute therefor the name of the successor trustee of the Trust. Notice of any change in the Issuer Trustee may be endorsed upon or attached to this Declaration of Trust and signed by the successor Issuer Trustee and every such notice will be sufficient evidence to any Person dealing with the Issuer Trustee under this Declaration of Trust as to the facts to which it relates.

10.3 Supplemental Declaration of Trust

The Issuer Trustee is authorized to execute any supplemental declaration of trust to give effect to amendments to this Declaration of Trust made pursuant to this Article 10. The Issuer

Trustee shall not be obligated to enter into any such supplemental declaration if it adversely affects the Issuer Trustee's rights, duties or immunities under this Declaration of Trust or otherwise. No amendment to or amendment and restatement of this Declaration of Trust, whether pursuant to this Article 10 or otherwise, shall be construed as a termination of the Trust or the settlement or establishment of a new trust.

ARTICLE 11
DISTRIBUTION OF TRUST PROPERTY[2]

11.1 Distributions

(1) The Issuer Trustee may declare to be payable and make distributions, from time to time, out of Income of the Trust, net realized capital gains of the Trust, capital of the Trust or otherwise, in any year, in such amount or amounts, and on such dates as the Issuer Trustee may determine, to the Unitholders at the record date for such distribution. The Issuer Trustee may declare such amounts to be payable or authorize such distributions in advance by way of a standing resolution that is effective for a period not exceeding 12 months after the date of the resolution.

(2) If the Issuer Trustee declares to be payable or makes a distribution pursuant to subsection 11.1(1) without determining the portion of such distribution that is payable out of Income of the Trust, net realized capital gains of the Trust, capital of the Trust or otherwise, such allocation shall be made pursuant to subsection 11.2(2).

(3) Having regard to the present intention of the Issuer Trustee to make payable to Unitholders all of the Income of the Trust and net realized capital gains of the Trust for each taxation year so that the Trust will not have any liability for tax under Part I of the ITA in any taxation year (other than alternative minimum tax or taxes payable under the "SIFT trust" rules in the ITA), unless the Issuer Trustee, in its sole discretion determines otherwise, the following amounts will, without any further actions on the part of the Issuer Trustee, be due and payable to the Unitholders of record on the last day in each such taxation year:

(a) an amount equal to the amount, if any, by which the Income of the Trust for such year exceeds the aggregate of (A) any amount of the Income of the Trust payable to redeeming Unitholders pursuant to subsection 4.1(5), (B) the aggregate of the portions of the distributions paid or payable by the Trust which have been determined by the Issuer Trustee to have been payable by the Trust out of the Income of the Trust for such year, if any, and (C) the aggregate of the portions of distributions deemed by subsection 11.2(2)(a) to be paid or payable by the Trust out of the Income of the Trust for such year; and

(b) an amount equal to the amount, if any, by which the net realized capital gains of the Trust for such year exceeds the aggregate of (A) any amount of the net realized capital gains of the Trust payable to redeeming Unitholders pursuant to subsection 4.1(5), (B) the aggregate of the portions of the distributions paid or

[2] Subject to PILs exemption.

payable by the Trust which have been determined by the Issuer Trustee to have been payable by the Trust out of net realized capital gains of the Trust for such year, if any, and (C) the aggregate of the portions of distributions deemed by subsection 11.2(2)(b) to be paid or payable by the Trust out of the net realized capital gains of the Trust for such year, if any.

Any determinations by the Issuer Trustee not to make a distribution described in this subsection 11.1(3) must be exercised by the Issuer Trustee in writing prior to December 31 of the applicable taxation year.

(4) The proportionate share of each Unit of the amount of any distribution made pursuant to this section will be determined by dividing such amount by the number of issued and outstanding Units on the applicable record date in respect of a distribution pursuant to subsection 11.1(1) and on the last day of the taxation year in respect of a distribution pursuant to subsection 11.1(3). Each Unitholder's share of the amount of any such distribution will be an amount equal to the proportionate share of each Unit of such amount multiplied by the number of Units owned of record by each such Unitholder on such applicable record date or the last day of the taxation year, as the case may be, and such Unitholder shall, on such date, be entitled to enforce payment of the Unitholder's share. Subject to section 11.3, amounts which are payable to Unitholders will be paid in cash.

11.2 Allocation

(1) Subject to subsection 11.2(2), distributions payable to the Unitholders pursuant to Article 11 will be deemed to be distributions of Income of the Trust (including dividends), net realized capital gains of the Trust, returns of capital or other items in such amount as the Issuer Trustee in its absolute discretion determines and will be allocated to the Unitholders in the same proportions as distributions received by the Unitholders, subject to the discretion of the Issuer Trustee to adopt an allocation method which the Issuer Trustee considers to be more reasonable in the circumstances.

(2) If the Issuer Trustee has declared to be payable or made one or more distributions in a taxation year pursuant to subsection 11.1(1) without determining the portion of such distributions that is payable out of Income of the Trust, net realized capital gains of the Trust, capital of the Trust or otherwise, such distributions shall be deemed to be paid or payable out of:

(a) first, the Income of the Trust for such year to the extent, if any, that the Income of the Trust for such year exceeds the aggregate of the amounts in subsection 11.1(3)(a)(A) and 11.1(3)(a)(B);

(b) second, the net realized capital gains of the Trust for such year to the extent, if any, that the net realized capital gains of the Trust for such year exceeds the aggregate of the amounts in subsection 11.1(3)(b)(A) and 11.1(3)(b)(B); and

(c) as to any balance, the capital of the Trust;

and such amounts will be allocated to the Unitholders in the same proportions as such distributions were received by the Unitholders.

(3) For greater certainty it is hereby declared that any distribution of net realized capital gains of the Trust will include the non-taxable portion of the capital gains of the Trust which are included in such distribution.

11.3 Payment of Distributions

(1) Distributions to a Unitholder will be made by cash, wire transfer or cheque payable to or to the order of the Unitholder or by such other manner provided for in subsection 11.3(3). The payment, if made by cheque, will be conclusively deemed to have been made upon hand delivery of a cheque to the Unitholder or to its agent duly authorized in writing or upon the mailing of a cheque by prepaid first-class mail addressed to the Unitholder at its address set out in the records of the Issuer Trustee unless the cheque is not paid on presentation, or in any other manner determined by the Issuer Trustee in its discretion. The Issuer Trustee may issue a replacement cheque if it is satisfied that the original cheque has not been received or has been lost or destroyed upon being furnished with such evidence of loss, indemnity or other document in connection therewith that the Issuer Trustee may in its discretion consider necessary.

(2) The Issuer Trustee may, in its sole discretion, transfer temporarily from capital to income within the Trust sufficient cash to facilitate payments of Income of the Trust to Unitholders. A permanent transfer from capital to income may be effected if payments made by and /or expenses of the Trust in any year exceed the aggregate of the net income and net realized capital gains of the Trust in such year.

(3) Without limiting the generality of the foregoing, a distribution to a Unitholder may be paid (i) by the issuance of additional Units, or fractions of Units having a fair market value equal to the amount of such distribution, (ii) by the issuance of a promissory note for a principal amount equal to the amount of such distribution and/or (iii) *in specie* by the transfer of Trust Property having a fair market value equal to the amount of such distribution, all as may be determined by the Issuer Trustee. The Issuer Trustee acknowledges and agrees that it will elect to make payment to a Unitholder of the amount of a distribution in the manner described in this subsection 11.3(3) only if it has received prior written notice from the Unitholder that such payment method is acceptable, and the Unitholder makes the cash payment described in Section 11.7 to the Issuer Trustee, which written notice may be revoked in writing by the Unitholder at any time. If the Issuer Trustee elects to make payment of the amount of a distribution by the issuance of a promissory note, such promissory note shall bear interest at a fixed or floating rate, shall be repayable on demand or on the expiry of a stated term, and shall contain such other terms all of which may be determined by the Issuer Trustee such that the fair market value of such promissory note is equal to the amount of the distribution. Any such promissory note or additional Units issued, or Trust Property transferred, by the Trust shall constitute absolute and unconditional payment in full of the distribution and, by becoming a Unitholder, each Unitholder hereby acknowledges that any such note, additional Units or transfer of Trust

Property will be accepted by the Unitholder as such absolute and unconditional payment of the distribution payable to the Unitholder.

11.4 Legal Rights

For greater certainty, it is hereby declared that the Unitholders shall have the legal right to enforce payment of any amount to be distributed or payable hereunder at the time such amount is due and payable.

11.5 Income Tax Matters

In reporting income for income tax purposes, the Trust will claim the maximum amount available to it as deductions under the relevant law, unless the Issuer Trustee determines otherwise.

11.6 Designations

In accordance with and to the extent permitted by the ITA, the Issuer Trustee will, in each taxation year, make such designations for income tax purposes in respect of amounts paid or payable or deemed to be paid to the Unitholders for such amounts that the Issuer Trustee considers to be reasonable in all circumstances, including designations relating to taxable dividends received or deemed to be received by the Trust in the year on shares of taxable Canadian corporations, net taxable capital gains of the Trust in the year and foreign source income of the Trust and foreign taxes in respect of such foreign source income for the year, if any.

11.7 Withholding Taxes

The Issuer Trustee will deduct or withhold from distributions payable to a Unitholder amounts required by law to be deducted or withheld from such Unitholder's distributions, whether such distributions are in the form of cash, a promissory note, additional Units or otherwise. To the extent that any amounts are deducted or withheld from payments described in subsection 11.3(1), such deducted or withheld amounts shall be treated for all purposes as having been paid to a Unitholder in respect of the distribution payable, provided that such deducted or withheld amounts are actually remitted in accordance with applicable law to the appropriate taxing authority. In the event that the Issuer Trustee elects to pay a distribution pursuant to subsection 11.3(3), the Unitholder shall provide cash to the Issuer Trustee in amount equal to any required deduction or withholding, which the Issuer Trustee shall forthwith remit to the appropriate taxing authority on behalf of the Unitholder.

ARTICLE 12
TERMINATION OF THE TRUST

12.1 Termination

(a) The Trust will continue in full force and effect for a period of twelve months from the date hereof and thereafter for so long as any Funding Obligations remain outstanding and until the Trust has satisfied all of its obligations under the Program Agreements or otherwise for the purposes of carrying on the Trust Activities. Notwithstanding the foregoing, the Issuer Trustee may, with the unanimous

approval of Unitholders, wind-up the affairs of the Trust and terminate the Trust and distribute the Trust Property then remaining to the Unitholders in proportion to the number of Units held by each Unitholder no later than the date that is one day prior to the 21st anniversary of the death of the last surviving lineal descendent of Queen Elizabeth, II of England living at the date this declaration is made.

(b) Subject to Section 12.1(a), the Issuer Trustee may, with the unanimous approval of the Unitholders, wind up the affairs of the Trust and terminate the Trust. To the fullest extent permitted by law, and notwithstanding any duty otherwise existing at law or in equity, the Issuer Trustee shall consider only the interests of the Trust, including its creditors, in acting on the matters referred to in this Section 12.1. On the date the Trust is terminated, the Issuer Trustee will, upon receipt of such releases, indemnities and refunding agreements as the Issuer Trustee may deem necessary for its protection, distribute the remaining Trust Property, after payment of all other obligations of the Trust, in cash or in kind , or partly in each, to the Unitholders in proportion to the number of Units held by each Unitholder

ARTICLE 13
GENERAL

13.1 Irrevocability

The Trust shall be irrevocable.

13.2 Change of Office

The Issuer Trustee may at any time and from time to time during the existence of the trusts hereby created change the head office, chief executive office, chief place of business and situs of the administration of the Trust to another location within Ontario or have such other offices or places of administration within Canada as the Issuer Trustee may from time to time determine is necessary or desirable.

13.3 Execution of Instruments

The Issuer Trustee shall have power from time to time to appoint any Person or Persons on behalf of the Trust either to sign instruments in writing generally or to sign specific instruments in writing.

13.4 Manner of Giving Notice

Except as otherwise permitted herein, any notice required or permitted by the provisions of this Declaration of Trust to be given to a Unitholder or the Issuer Trustee shall be deemed conclusively to have been given if given either by delivery or by prepaid first-class mail addressed to each Unitholder at its address shown on the register of Unitholders or to the Issuer Trustee at the last address provided by the Issuer Trustee for such purpose. Any notice so given shall be deemed to have been given on the day of hand delivery or the day following that on which the notice was mailed.

13.5 Taxation Information

On or before March 30 in each year, or such earlier day as is required by applicable legislation or regulation, the Issuer Trustee will provide to Unitholders who received distributions from the Trust in the prior calendar year such information regarding the Trust required by applicable law to be submitted to Unitholders for income tax purposes to enable Unitholders to complete their tax returns in respect of the prior calendar year.

13.6 Severability

The provisions of this Declaration of Trust are severable and if any provisions are in conflict with any applicable law, the conflicting provisions shall be deemed never to have constituted a part of this Declaration of Trust and shall not affect or impair any of the remaining provisions thereof. If any provision of this Declaration of Trust shall be held invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall attach only to such provision in such jurisdiction and shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Declaration of Trust in any jurisdiction.

13.7 Governing Law

This Declaration of Trust shall be interpreted and governed by and take effect exclusively in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any and all disputes arising under this Declaration of Trust, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario and the Issuer Trustee hereby irrevocably attorns, and each Unitholder shall be deemed to hereby irrevocably attorn, to the exclusive jurisdiction of the courts of such province.

13.8 Language

Les parties aux présentes ont exigés que la présente convention ainsi que tous les documents et avis qui s'y rattachent et/ou qui en découleront soient rédigés en la langue anglaise. The parties hereto have required that this Declaration of Trust and all documents and notices resulting herefrom be drawn up in English.

IN WITNESS WHEREOF the Issuer Trustee has caused this Declaration of Trust to be executed as of the day and year first above written by its duly authorized signatories.

[TRUST COMPANY],
as Issuer Trustee

By: _____
Name:
Title:

By: _____
Name:
Title:

From:	Gadi Mayman
To:	Karen Hughes (MGS); "Veinot, Cindy (TBS)"; Scott Nelms (ENERGY); Ronald Kwan
Cc:	Anna Strathy
Subject:	FW: Fair Hydro Plan - Provincial Support Agreement - Term Sheet <comments from TD>
Date:	Friday, April 28, 2017 11:27:08 AM
Attachments:	Performance Servicing Guarantee Sample.pdf Servicing Obligations Summary.pdf Term Sheet - Provincial Support AgreementApr26 (2).docx

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With the attachments from TD.

From: Carlos Yep
Sent: Friday, April 28, 2017 11:12 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Adam Prokop <Adam.Prokop@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; 'Kaitlin.Montgomery@ontario.ca' <Kaitlin.Montgomery@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: Fair Hydro Plan - Provincial Support Agreement - Term Sheet <comments from TD>

Fyi

From: Thompson, Susan [mailto:Susan.Thompson@tdsecurities.com]
Sent: Friday, April 28, 2017 10:40 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Thom, Trevor <Trevor.Thom@tdsecurities.com>; Holloway, Harold <Harold.Holloway@tdsecurities.com>; Wolff, Michael <Michael.Wolff@tdsecurities.com>; Purkis, Brad <Brad.Purkis@tdsecurities.com>; Hilloowala, Maharukh <Maharukh.Hilloowala@tdsecurities.com>
Subject: Fair Hydro Plan - Provincial Support Agreement - Term Sheet

Mike, Jim, Carlos

Please see below for our comments on the draft term sheet for the Provincial Support Agreement. Let us know when you would like to discuss further. Also, please note that we have not sent the comments or the term sheet to Steve Ashbourne at Blakes. Please let us know if you would like us to do so.

Attached is a sample servicing guarantee for a general securitization transaction to provide examples of common features. Note that the sample guarantee is formatted for a corporate transaction and would have to be adjusted accordingly. Also attached is a brief description of the servicing obligations typically covered by a servicing guarantee.

In reviewing the term sheet, we believe that the Servicing Guarantee is narrow in scope.

- Not a conventional servicing guarantee for securitization transactions
- It may not be acceptable for the rating agencies, particularly if monthly remittances of collections from the LCDs are necessary.

As drafted, it solely allows for the appointment of a replacement servicer by the Guarantor upon the occurrence of a Servicer Default (due to breach of servicing performance).

- It does not cover any losses arising from a breach of the electricity vendors' servicing obligations (typical servicing obligations described in attachment)
- It would preclude the monthly remittance of collections by the LDS to IESO for deposit into the Trust's collection account.

Other Items of Consideration:

- Not typical for the Indenture Trustee to be obligated to provide any reporting to the Guarantor
- Confidentiality would be difficult to maintain for a public issuance. The guarantee is a material component of the transaction and will have to be disclosed in detail in the IM, and possibly posted as a material contract
- Consistent with other "AAA" transactions, performance under the guarantee is expected to occur promptly, typically within 2 business days for payment obligations
- Guarantee does not cover a market disruption and the inability to refinance existing due and maturing issuances (including ABCP)

Susan Thompson, MBA | Director | Government Finance | **TD Securities**
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T: 416 982 6587 | C: 416 436 2533 | Susan.Thompson@tdsecurities.com

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SERVICER GUARANTEE

This Agreement is made as of ▪ **[],** 2017, between

ABC, a corporation incorporated under the laws of the Ontario ("**Guarantor**")

and

GHI TRUST
by its trustee
XYZ LIMITED, a trust company incorporated under the laws of Canada (the "**Trust**")

RECITALS

A. The Trust and GHI ("**GHI**"), have entered into a master purchase agreement (the "**MPA**" made as of the date hereof pursuant to which GHI has agreed to sell and the Trust has agreed to purchase from GHI certain assets and the related rights given in respect thereof on a fully serviced basis.

B. Pursuant to the [MPA/Servicing Agreement] GHI has been appointed and has agreed to act as Servicer under, and in accordance with the [MPA/Servicing Agreement depending on the documentation].

C. The Guarantor has agreed to guarantee for the benefit of the Trust the performance and payment by GHI of GHI's covenants, agreements, liabilities and obligations under the [MPA/Servicing Agreement] in its capacity as Servicer on the terms set forth herein.

FOR VALUE RECEIVED, the parties agree as follows:

SECTION 1 – INTERPRETATION

1.1 Definitions. Unless otherwise defined herein, terms used in this Guarantee and not defined herein, shall have the respective meanings ascribed to them in the [MPA/Servicing Agreement].

SECTION 2

2.1 Guarantee. The Guarantor unconditionally and irrevocably guarantees to the Trust, as a primary obligor and not merely as a surety, the due and prompt performance, payment and observance of all of the terms, conditions, covenants, agreements, liabilities, indemnities and obligations of any kind whatsoever which GHI has incurred, may incur or be under to the Trust in GHI's capacity as Servicer under the [MPA/Servicing Agreement] ("**Obligations**") strictly in accordance with the terms hereof and thereof, excluding, for greater certainty, any of GHI's covenants, agreements, liabilities and obligations under the MPA in its capacity as Seller under the MPA or in any capacity other than as Servicer. If for any reason whatsoever GHI shall fail to perform, pay or observe any of the Obligations, the Guarantor shall duly and punctually perform, pay and observe such Obligations. All amounts payable by the Guarantor hereunder shall be paid to the Trust by way of deposit by the Guarantor to the applicable Collection Account forthwith following a claim therefor by or on behalf of the Trust.

Nothing contained herein shall be deemed to constitute credit recourse to the Guarantor for payment of losses arising from losses attributable to any [specified consumer's] failure to discharge its payment obligations under any obligation/pay the invoice amount.

2.2 Guarantee Unconditional. The obligations of the Guarantor under this Guarantee are continuing, unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged, diminished, limited, impaired or otherwise affected by (and the Guarantor hereby waives, to the fullest extent permitted by applicable law):

(1) any extension, other indulgence, renewal, settlement, discharge, compromise, waiver, subordination or release in respect of any obligation, security, person or otherwise;

(2) any modification or amendment of or supplement to the Obligations made in accordance with the MPA or other related documents, including, without limitation, any increase or decrease in any amount payable thereunder;

(3) any release, non-perfection or invalidity of any direct, indirect or collateral security for any Obligation;

(4) any change in the existence, structure, constitution, name, objects, powers, business, control or ownership of GHI or any other person, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting GHI or any other person or its assets, or amalgamation of GHI with any other corporation and the term GHI shall include each corporation resulting from any such amalgamation or subsequent amalgamation;

(5) the existence of any unrelated claim, set-off or other rights which the Guarantor may have at any time against GHI, the Trust, or any other person, whether in connection herewith or any unrelated transactions;

(6) any invalidity, illegality or unenforceability relating to or against GHI or any provision of applicable law or regulation purporting to prohibit the payment by GHI of the principal or interest under the Obligations;

(7) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Trust to payment of the obligations;

(8) any release, substitution or addition of any co-signer, endorser or other guarantor of the Obligations;

(9) any defence arising by reason of any failure of the Trust to make any presentment, demand for performance, notice of non-performance, protest and any other notice, including notice of all of the following: acceptance of this Guarantee, partial payment or non-payment of all or any part of the Obligations and the existence, creation or incurring of new or additional Obligations;

(10) any defence arising by reason of any failure of the Trust to proceed against GHI or any other person, to proceed against, apply or exhaust any security held from GHI or any other person for the Obligations, to proceed against, apply or exhaust any security held from the Guarantor or any other person for this Guarantee or to pursue any other remedy in the power of the Trust whatsoever;

(11) any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal obligation or which reduces a guarantor's obligation in proportion to the principal obligation;

(12) any defence arising by reason of any incapacity, lack of authority or other defence of GHI or any other person, or by reason of any limitation, postponement, prohibition on the Trust's right to payment of the obligations or any part thereof, or by reason of the cessation from any cause whatsoever of the liability of GHI or any other person with respect to all or any part of the obligations, or by reason of any act or omission of the Trust or others which directly or indirectly results in the discharge or release of GHI or any other person or all or any part of the obligations or any security or guarantee therefor, whether by contract, operation of law or otherwise;

(13) any defence arising by reason of any failure by the Trust to obtain, perfect or maintain a perfected or prior (or any) security interest in or lien or encumbrance upon any property of GHI or any other person, or by reason of any interest of the Trust in any property, whether as owner thereof or the holder of a security interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Trust of any right to recourse or collateral;

(14) any defence arising by reason of the failure of the Trust to marshall any assets;

(15) any defence based upon any failure of the Trust to give to GHI or the Guarantor notice of any sale or other disposition of any property securing any or all of the Obligations or any guarantee thereof, or any defect in any notice that may be given in connection with any sale or other disposition of any such property, or any failure of the Trust to comply with any provision of applicable law in enforcing any security interest in or lien upon any such property, including any failure by the Trust to dispose of any such property in a commercially reasonable manner; or

(16) any defence based upon or arising out of any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against GHI or any other person, including any discharge of, or bar against collecting, any of the obligations, in or as a result of any such proceeding.

2.3 Recourse Against GHI. The Trust shall not be required to exhaust its recourse against GHI or any other person or under any other security or guarantee before being entitled to performance by the Guarantor under this Guarantee; provided, however, that where the Trust seeks performance under this Guarantee, the Trust shall not proceed against the Guarantor under this Guarantee (and the Guarantor shall have no obligations in respect thereof) prior to the expiration of any applicable cure period explicitly set out in the [MPA/Servicing Agreement].

2.4 No Subrogation. Until all of the Obligations have been paid or performed in full, the Guarantor shall have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which the Trust now has or may hereafter have against GHI in respect of the Obligations and the Guarantor waives any benefit of, and any right to participate in, any security now or hereafter held by the Trust for the Obligations.

2.5 Settlement of Accounts. Any account settled or stated between the Trust and GHI shall be accepted by the Guarantor as prima facie evidence that the amount thereby appearing due by GHI to the Trust is so due.

2.6 Reinstatement. If, at any time, all or any part of any payment previously applied by the Trust to any Obligation is or must be rescinded or returned by the Trust for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of GHI), such Obligation shall, for purposes of this Guarantee, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Trust, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Obligation, all as though such application by the Trust had not been made.

SECTION 3 – REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties. The Guarantor represents and warrants to the Trust as follows:

(1) the Guarantor is a corporation validly existing under the laws of its jurisdiction of incorporation, has full corporate power and authority to own its properties and assets and to carry on its businesses, as presently owned and carried on by it, in every jurisdiction in which it is currently carrying on business where the failure to be so qualified would have a material adverse effect on the ability of Guarantor to perform its obligations under this Guarantee;

(2) the Guarantor has full corporate power and capacity to execute and deliver this Guarantee and to perform all of its obligations hereunder;

(3) the Guarantor has taken all necessary action to authorize the execution and delivery of this Guarantee and the performance of its obligations hereunder;

(4) this Guarantee has been duly executed and delivered by the Guarantor;

(5) this Guarantee is a legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor by the Trust in accordance with its terms, subject to bankruptcy, insolvency, reorganization, winding-up, moratorium and other laws affecting the rights of creditors generally and the fact that specific performance and injunction are equitable remedies available only in the discretion of a court;

(6) the execution and delivery by the Guarantor of this Guarantee and the performance by the Guarantor of its obligations hereunder and of the transactions contemplated hereby, does not and will not contravene, breach, constitute a default under, violate or conflict with, as the case may be:

(a) the Guarantor's constating documents or by-laws or any resolution passed by the board of directors or shareholders of the Guarantor;

(b) any law, rule or regulation applicable to or binding on the Guarantor or any of its property and assets; or

(c) any order, writ, judgment, award, injunction or decree binding on the Guarantor or affecting its property or assets,

and does not and will not result in or require the creation of any encumbrance upon any of the property and assets of the Guarantor;

(7) the execution and delivery by the Guarantor of this Guarantee and the performance of its obligations hereunder and of the transactions contemplated hereby, does not and will not contravene, breach, constitute a default under, violate or conflict with, as the case may be, any material indenture, loan or credit agreement, lease, mortgage or, security agreement, to which the Guarantor is a party or by which it, or its property and assets, are bound;

(8) no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority, agency or any other person is necessary in connection with the execution and delivery by the Guarantor of this Guarantee or the performance of its obligations hereunder or of the transactions contemplated hereby, or to give legal effect to the same other than such as have been obtained or made except to the extent the failure to do so would not have a material adverse effect on the ability of the Guarantor to perform its obligations under this Guarantee;

(9) there are no actions, suits or proceedings pending or, to the knowledge of the Guarantor, threatened against or affecting the Guarantor or any of its undertakings, property and assets, at law or in equity or before any arbitrator or before or by any Governmental Authority, governmental department body, agency, commission, board, bureau, or instrumentality having jurisdiction in the premises in respect of which there is a reasonable possibility of a determination adverse to the Guarantor which could, if determined adversely, materially and adversely affect the ability of the Guarantor to perform any of its obligations hereunder.

SECTION 4- COVENANTS

4.1 Covenants of the Guarantor. The Guarantor covenants with the Trust that, during the currency of this Guarantee, it shall:

(1) comply in all material respects with all laws, rules, regulations and orders applicable to it and all or any of its businesses and properties;

(2) preserve and maintain its corporate existence;

(3) furnish to the Trust a statement of the details of any Servicer Termination Event in respect of MPA/Servicing Guarantee applicable to it within a reasonable period of time after the occurrence thereof and the Guarantor's proposed response;

(4) so long as GHI is the Servicer in respect of the [MPA/Servicing Agreement], as applicable, make all payments and perform all obligations required to be made or performed by the Servicer in accordance with the [MPA/Servicing Agreement], within 2 Business Days of the date the payment or action was to be performed or the end of the applicable cure period, if any; and

(5) continue to directly or indirectly hold shares of GHI sufficient to control GHI.

SECTION 5 – GENERAL

5.1 Termination. This Guarantee shall terminate on the Final Remittance Date [to mirror the requirement 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 paid], at which time the rights hereby granted shall cease and become null and void and the Trust shall, at the request and expense of the Guarantor, execute and deliver to the Guarantor such instruments as shall be reasonably required to release and discharge the Guarantor from its covenants, agreements, liabilities and obligations under Guarantee.

5.2 Further Assurances. The Guarantor shall, from time to time, do and perform any and all acts and execute any and all further instruments which may be required or which may be reasonably requested by the Trust more fully to effect the purpose of this Guarantee.

5.3 Payments. All payments to be made by the Guarantor under this Guarantee shall be made in full, without set-off or counterclaim and without deduction for any taxes, levies, duties, fees, deductions, withholdings, restrictions or conditions of any nature whatsoever. If at any time, or from time to time, any applicable law, regulation or international agreement requires the Guarantor to make any such deduction or withholding from any such payment, the sums due from the Guarantor with respect to such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Trust receives a net sum equal to the sum which it would have received had no deduction or withholding been required, and the Guarantor shall indemnify the Trust on an after tax basis with respect to any such deduction or withholding, including with respect to any taxes payable by the Trust on any increased amounts payable under this Section 5.3.

5.4 Cost and Expense. The Guarantor shall pay all reasonable out-of-pocket costs and expenses of the Trust (including the fees and disbursements of counsel) in connection with the enforcement of the obligations of the Guarantor under this Servicing Guarantee. The Guarantor agrees to indemnify and hold harmless the Trust from and against any and all liability incurred by the Trust or the Financial Services Agent hereunder in connection herewith (including the enforcement of the obligations of the Guarantor under this Guarantee), other than any liabilities attributable to the gross negligence or willful misconduct of the Trust, the Financial Services or any of their respective officers, employees or agents.

5.5 Governing Law. This Guarantee shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

5.6 Financial Condition of Guaranteed Parties: The Guarantor is fully aware of the financial condition of the Guaranteed Parties.

5.7 No Waiver, Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Trust, any right, remedy, power or privilege hereunder, shall operate as a waiver hereof nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exhaustive of any rights, remedies, powers and privileges provided by law.

5.8 Amendments. Any provision of this Guarantee may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Guarantor and the Trust, and satisfies the Rating Agency Condition [that is the action will not result in the rating agencies downgrading the rated securities].

5.9 Notices. All notices or other communications authorized or required to be given pursuant to this Guarantee, or pursuant to which any rights or obligations may arise hereunder, shall be in writing (including telecopied communication and such other method of recorded or recordable electronic communications as to which the parties may hereafter agree) and shall be either personally delivered or sent by telecopier as follows:

[]

5.10 Successors and Assigns. This Guarantee shall be binding upon the Guarantor and shall inure to the benefit of the Trust and its successors and permitted assigns. The Guarantor may not assign any of its obligations under this Guarantee without the prior written consent of the Trust and satisfies the Rating Agency Condition.

5.11 Consent to Jurisdiction, Waiver of Immunities. The Guarantor hereby irrevocably submits to the non-exclusive jurisdiction of any court sitting in the Province of Ontario in any action or proceeding arising out of or relating to this Guarantee and the Guarantor irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such Ontario court. The Guarantor hereby irrevocably waives, to the extent permitted by law, the forum non conveniens defence to the maintenance of any such action or proceeding. The Guarantor agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by

law. Nothing in this Section [] shall affect the right of the Trust to serve legal process in any other manner permitted by law or affect its right to bring any action or proceeding against the Guarantor or its property and assets in the courts of any other jurisdiction.

5.12 Entire Agreement. This Guarantee contains the entire agreement between the parties relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, term sheets, commitments, understandings, negotiations and discussions, whether oral or written. There are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

5.13 Survival. All covenants, representations and warranties of the Guarantor hereunder shall survive the execution hereof. The obligations of the Guarantor to the Trust under this Guarantee shall not be affected by reason of any invalidity, illegality or irregularity of the obligations.

5.14 Severability. Any provision of this Guarantee which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Guarantee, all without affecting the remaining provisions of this Guarantee or affecting the validity or enforceability of such provision in any other jurisdiction.

5.15 Additional Security. This Guarantee is in addition, and without prejudice, to any security of any kind (including other guarantees) now or hereafter held by the Trust and any other rights or remedies that may be available to the Trust.

5.16 Headings. The headings of the Sections herein are for convenience of reference only and shall not the interpretation of any of the terms or provisions hereof.

IN WITNESS WHEREOF the Guarantor has executed this Guarantee as of the date first above written.

Servicing Obligations Covered by a Servicing Guarantee

The Servicing Guarantee covers the performance and payment of any party's (Electricity Vendor) covenants, agreement, liabilities, indemnities and obligations in connection to its servicing duties pursuant to the master purchase agreement/servicing agreement.

We expect that IESO as agent to the investment interest owners would perform the servicing duties. As such the Servicer would include the IESO and each other electricity vendor (which is typically a sub-servicer retained/appointed by the Servicer as each sub-servicer is not likely to be a party to the master purchase agreement/servicing agreement). IESO (Servicer) will remain liable for the performance of the duties and obligations so subcontracted and all other duties and obligations of the Servicer as outlined in the master purchase agreement/servicing agreement.

The Servicer's covenants, agreement, liabilities and obligations pursuant to the master purchase agreement/servicing agreement covered by the Servicing Guarantor generally include:

- Servicing of the investment assets, generally includes:
    - Invoicing and collecting the invoice amounts;
    - Recording and holding the assets in a secure manner, available for examination if requested;
    - Maintaining prudent and reasonable administrative and operating procedures;
    - Requiring its auditors to report on the status of the investment assets;
    - Effecting all filings and recordings;
    - Using reasonable efforts in accordance with the regulation to collect the investment assets;
    - Comply with the regulations in connection with the investment assets,

    all in accordance with the regulations and established credit and collection policies; and

    - Not make material changes to its credit and collection policies unless Rating Agency Condition is satisfied
    - Prepare and deliver a monthly report to the investment interest owners.
- Amounts held in trust by the electricity vendor until remitted and deposited into an trust account
    - Collections will be remitted monthly into a trust account unless the Guarantor fails to maintain an acceptable rating, in which case amounts will be deposited within 2 business days of receipt. Losses arising from the commingling of funds, due to such events as bankruptcy/insolvency of the electricity vendor, would be covered by the Servicing Guarantee.
- Losses arising from amounts invested in permitted investments in trust accounts at the direction of the Servicer
- Amounts to be received from the seller/servicer in connection with deemed collections where either a valid lien is asserted against any part of the investment asset or the investment asset is reduced cancelled as a result of a set-off in respect of any claim by the specified against the Servicer/Electricity Vendor

Provincial Support Agreement Term Sheet –

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.
Beneficiaries:	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 all persons who may have contractual claims against a Financing Entity (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]).
Term:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[2] after all Funding Obligations 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 the Master Sale and Servicing Agreement between IESO, as seller and servicer, and the Financing Entity, as purchaser, **[and OPG as Financial Services Manager]** ("**MSSA**"). 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.

[1] We have assumed that the initial Financing Entity will be a trust.

[2] 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.

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) if the Legislative Assembly of Ontario repeals the Act; or (B) if the Legislative Assembly of Ontario amends the Act or Regulation thereunder in a way that adversely impacts the ability of a Financing Entity to fully recover an investment interest in order to fully pay all 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 interest in order to fully pay all obligations incurred by such Financing Entity in respect of such investment interest or (ii) declares any funding obligations to be invalid or unenforceable.
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.

[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.

Subrogation:	Where the Guarantor has repaid a Beneficiary, to the extent of such payment, the Guarantor is subrogated in and to all the rights of recovery of such Beneficiary in respect of the applicable indebtedness and the security granted by a Financing Entity to the Indenture Trustee. After repayment by the Guarantor of all amounts owing to a Beneficiary, the Indenture Trustee will acknowledge and agree on behalf of such Beneficiary that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiary has or may exercise in respect of the repaid indebtedness, all in accordance with the terms of the Master Trust Indenture.
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.[5]
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.

[5] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

Governing Law:	Province of Ontario

From:	Carlos Yep
To:	Gadi Mayman; Anna Strathy; Ken Kandeepan; John Psinas; John Kim; Ronald Kwan; "Montgomery, Kaitlin (MOF)"; Scott Nelms (ENERGY)
Subject:	FW: Fair Hydro Plan - guarantee / provincial support - TD Comments
Date:	Wednesday, August 16, 2017 1:40:40 PM
Attachments:	Comments on Provincial Protection and Assurances Term Sheet (F).pdf

FYI – attached are some initial comments from TD

From: Thompson, Susan [mailto:Susan.Thompson@tdsecurities.com]
Sent: Wednesday, August 16, 2017 1:35 PM
To: Carlos Yep <Carlos.Yep@ofina.on.ca>; Thom, Trevor <Trevor.Thom@tdsecurities.com>; Castle, Steven <Steven.Castle@tdsecurities.com>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Hilloowala, Maharukh <Maharukh.Hilloowala@tdsecurities.com>; Laing, Mark <Mark.Laing@tdsecurities.com>
Subject: RE: Fair Hydro Plan - guarantee / provincial support

Hi Carlos,

Please see attached for comments. While the comments are not material in nature, we have suggested other options that you may wish to consider. I have cc'd Maharukh and Mark in the event you have questions. Please let us know if you would like a call to discuss.

Regards,
Susan

From: Carlos Yep [mailto:Carlos.Yep@ofina.on.ca]
Sent: Tuesday, August 15, 2017 12:24 PM
To: Thom, Trevor; Castle, Steven; Thompson, Susan
Cc: James Devine; Mike Manning
Subject: Fair Hydro Plan - guarantee / provincial support

Susan
Here is the latest draft from OPG with input from CIBC/RBC/GS.

We are starting to review the document. Can you also review and forward comments back to us. I am also expecting OPG and IESO to review and provide more feedback regarding servicing guarantee and LDC co-mingling risks.

Please call if you have any questions - we can discuss timeline.

Regards
Carlos

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Comments on the Provincial Protection and Assurances Term Sheet

Our review of the Term Sheet focused on three key aspects:

- Change in Law
- Servicing (commingling)
- Warehouse Takeout Risk

Change in Law:

On Guarantee Activation Events:

- Consider whether some of these types of events should be subject to having a "materially adverse effect" standard on the rights and interest of the special purpose entity, possibly (B), (C) and (E). Generally, imposing this standard for guarantees is not that common. Legal counsel should be able to provide more guidance.
- Guarantee Activation Event (C) – It would be helpful to understand under what circumstances the Province can have the ability to change its contractual obligations under a Guarantee and/or transaction documents without the consent of the Financing Entity. Material changes to transaction documents are typically also subject to the satisfaction of Rating Agency Condition "RAC" (i.e. the action does not result in the rating agency lowering the transaction rating). Investors place great reliance on the RACs in transaction documents to ensure that their interests are protected.

  If it's possible to make changes to the Guarantee and transaction documents without the Financing Entity consent than consider if a Guarantee Activation Event to occur if RAC is not satisfied (i.e. this action results in a ratings downgrade of the transaction).
- Guarantee Activation Event (E) - Is the concern here that a change in IESO's organization, structure, etc or change in the electricity market structure will affect IESO's servicing ability [as alluded in the NTD] or financial capability due to its strong linkage to the Province?

  If so, it seems the focus of IESO servicing capability is more fixated on its strong linkage with the Province rather than the actual rating of the Province or IESO. With the addition of this Guarantee Activation Event, there is no specific servicing guarantee for IESO needed (and there is at this point no minimum rating requirement for IESO as servicer other than if it wishes to assume the commingling risks of the LDCs). If so, this Event is a reasonable compromise in lieu of a servicing guarantee for IESO.
- Approval Requirement: Consider whether the Province wishes to have the right of "subsequent approval" if the form of the document if the document is materially changed or the changes adversely affect the Provinces rights/interest and obligations under the transaction.
- Last Point in Power Point Presentation – What are the additional compensations that US investors would require if the guarantee is triggered? We would expect that the additional compensation would also be available for existing and future Canada investors.

Servicing (commingling)

Commingling Risk of Non-Investment Grade LDCs:

- Mitigants proposed to address the commingling risk (backed by a L/C or deposit funds in the Commingling Reserve Account) are commonly used in securitization transactions.
- Commingling Risk Amount based on 45-60 days collections is generally the standard time frame applied for securitization transactions to determine the amount to cover for the commingling risk. The rating agency will determine the amount based on the frequency with which collections are remitted by the LDC's to IESO and also the time frame over which the LDC can be replaced as servicer
- L/C Provider rating of A+ is consistent with the rating requirement needed by rating agencies for credit enhancers. But, consider if there are two or more rating agencies involved in the transaction, if the rating test should be met for all rating agencies or at least one rating agency.

Warehouse Takeout Risk

- Warehouse Default Event: Failure to repay the warehouse facility at the end of the commitment period, results in the occurrence of a "default event" with the warehouse facility becoming immediately due and payable. In the securitization context, declaration of a "default event" and acceleration of the debt, would typically also allow the purchaser/warehouse banks to sell and realize on their collateral. It does not appear that the intent here is to allow the banks to sell the collateral, but the occurrence of the event simply allows for the amortization of the facility and increased pricing. If so, it would be more appropriate to use the term "Warehouse Amortization Event". Generally, lenders of the warehouse facilities would not have the ability to "sell" the collateral, but the pricing would be very punitive.
- Warehouse Default Payment Cap - If repayment is also due to existing note holders after the occurrence of a Warehouse Default Event, the amount under clause (b) for warehouse default payment cap amount would typically be calculated pro-rata with payments due to the other note holders of the Financing Entity

From:	Gadi Mayman
To:	Ken Kandeepan; Ronald Kwan
Cc:	Christina Zhang; David McLean (MOF); Christopher Pearce (MOI); Gavin He
Subject:	FW: Financial Advisor
Date:	Friday, March 24, 2017 11:33:28 AM

Mike's come up with a solution that won't cost us any extra money.

Gadi

-----Original Message-----
From: Gadi Mayman
Sent: Friday, March 24, 2017 11:20 AM
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

We do have an underwriting agreement with them already, which I'd suggest would cover this. Mike and I are in my office now, and his suggestion is that he will call TD and BMO today and ask them to come in for half an hour each early next week to discuss how they could provide value in this process. A bit of competition is probably a good idea, and Mike has narrowed it down to these two as the best options given that RBC and CIBC are already taken by OPG. Scott, would you be able to come over here for those discussions, and then between you and Mike, you can decide which of the two would be the best fit?

Gadi

-----Original Message-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Friday, March 24, 2017 11:17 AM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

Ok. Good point. Can we set up some sort of formal contract with them?

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: March 24, 2017 11:15 AM
To: Nelms, Scott (MOF); Manning, Mike (OFA)
Cc: Kennedy, Nancy (MOF)
Subject: RE: Financial Advisor

We pay TD plenty of commissions for underwriting our bonds, and those commissions are understood to also include providing other services to us, including advice, so I don't think that I'd consider this as free advice and don't see the need to pay more money to them beyond what we already pay.

Gadi

-----Original Message-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Friday, March 24, 2017 11:12 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

I talked this over with Serge. He is comfortable moving forward with one of the banks (maybe TD?). Although free advice sounds good, he was worried about perception and conflicts. His preference is to have Blakes procure their services. Any concerns with that approach?

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]

Sent: March 24, 2017 10:41 AM
To: Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Kennedy, Nancy (MOF)
Subject: RE: Financial Advisor

Hi Gadi:
I think having dealer advice on our side would be beneficial. I expect that OPG will have us outgunned with the dealer input that they will be receiving. It would be quite easy for us to pick from our dealer syndicate (thinking TD or BMO or Scotia Capital) and hopefully benefit from the advice we would receive. This could be done very quickly (i.e., as early as next week) and I expect could be done at no cost. The larger dealers would have utilities and U.S. expertise which would be beneficial and also have good input into what investors will require going forward. After all, the major Canadian dealers will be the ones making markets and having the most expertise on the structure. They would likely be quite eager to provide us advice on this matter and get involved.
Mike

-----Original Message-----
From: Gadi Mayman
Sent: Friday, March 24, 2017 10:26 AM
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Financial Advisor

TD did the Muskrat Falls deal, and structured it in what, at the time, was the most cost-effective way of doing it, but I don't think there was any legislation involved so it didn't have the same complexities. I don't know if there's a particularly big difference between any of the six banks, and they'll all likely push for the most iron clad guarantee that we're able to give, so maybe my idea isn't a great one on reflection, and we should fall back on a Blair Franklin type. Mike, any thoughts?

In the end, it's really about what the accountants say is acceptable or not, so I'm not sure having a second opinion from a financial advisor is of as much value as a second opinion on the direction that E&Y is giving OPG.

Original Message
From: Nelms, Scott (MOF)
Sent: Friday, March 24, 2017 9:55 AM
To: Gadi Mayman
Cc: Nancy Kennedy (MOHLTC); Mike Manning
Subject: RE: Financial Advisor

Serge talked to Alan yesterday, and apparently Alan feels he is conflicted given his ongoing involvement with OPG. I will float the idea of going to the other banks, as a check. Is there one of the 4 that has a particularly strong team?

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: March 24, 2017 9:34 AM
To: Nelms, Scott (MOF)
Cc: Kennedy, Nancy (MOF); Manning, Mike (OFA)
Subject: Re: Financial Advisor

I'm not sure how much value added that any of these boutiques would provide. The people that know the markets are the investment bankers that are actually going to be part of the syndicate that will have to market, sell and trade these bonds. Why not have one of TD, Scotia, National or BMO provide this double-checking? If we're worried about the conflict that they are going to give advice that will make it easier to sell the bonds to ultimately make their life as syndicate members easier, then I can see the potential attraction of an advisor that isn't in that business, but why can't Alan be that guy? I don't see that any of those that you've named would provide better external advice to the Province than he would, unless we're concerned that he's too embedded with OPG, but I don't think so.

As for the names you've mentioned, Hansel, if that turns out to be the third one, is run by a lawyer which might be helpful, but I don't know if they know much about bonds, maybe that's where Bill Gula comes in, Blair Franklin definitely knows bonds, as Fred Mifflin used to be head of government Finance at BMO many years ago and they advised the Feds on Muskrat Falls, and I haven't heard of Origin.

I've added Mike, because he knows way more about the bond market and what investors will want than anyone we've talked about in this exchange, so he may have some ideas as to where the Province should go for external advice.

Hope that helps.

Gadi
Original Message
From: Nelms, Scott (MOF)
Sent: Friday, March 24, 2017 8:45 AM
To: Gadi Mayman
Cc: Nancy Kennedy (MOHLTC)
Subject: RE: Financial Advisor

Hi Gadi,

Energy and Blakes suggest that the Province needs its own financial advisor to test what we are hearing from OPG. As I understand it, there are some elements that OPG believes are requirements in the legislation. The Province would like someone with a market perspective (in addition to your team) that can test the need for each of those requirements as they arise. Given timing, they need someone who can be available in real time to provide this advice.

I will circle back as to whether that is Hansell and not Hanslep. Let me know if there are other names that you might suggest.

Scott

Sent with BlackBerry Work (www.blackberry.com)

From: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>
Date: Thursday, Mar 23, 2017, 5:57 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: Kennedy, Nancy (MOF) <Nancy.Kennedy@ontario.ca<mailto:Nancy.Kennedy@ontario.ca>>
Subject: Re: Financial Advisor

Hi Scott, what is it that we're looking for from a financial advisor? Is this to help with the structuring of OPG Trust's debt issuance? I know Blair Franklin, and they advised Canada on Muskrat Falls. I'm not familiar with Origin, and I don't know Bill Gula, but is that Hansell LLP, not Hanslep?

In any case, I'm not sure what any of them bring to the table beyond what the three banks already engaged would provide, with Alan and the OFA weighing in when their inevitable conflicts get in the way?

I'd be happy to discuss further to get more colour on what you're looking for.

Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Thursday, March 23, 2017 2:26 PM
To: Gadi Mayman
Subject: FW: Financial Advisor

Hi Gadi,

Have you had any dealings with the financial folks listed below? If so any thoughts?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com<https://urldefense.proofpoint.com/v2/url?u=http-

3A__www.blackberry.com&d=DwIF_g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=3CXvpkRBdXO8bo6dIvXPkZDYa_kYL1UPZc_YCOdjLsg&s=QjbgTIleYB-TAsaUYgd3FdIujgwRRK1DPI5zTAO82fU&e= >)

From: Imbrogno, Serge (ENERGY) <Serge.Imbrogno@ontario.ca<mailto:Serge.Imbrogno@ontario.ca>>
Date: Thursday, Mar 23, 2017, 1:13 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI) <Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>
Cc: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Katona, Keley (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>
Subject: Financial Advisor

Hi,

I spoke with Alan Hibben. He's fully engaged on the file with OPG. He suggested three other firms/people -- Origin Financial, Blair Franklin, and Bill Gula (Hanslep LLP). Carolyn, suggest you chat with Judy if Blakes has worked with any of the above. Scott, you could talk to Gadi etc if he has some thoughts on the above as well.
Let's group after your chats.
Serge

Sent from my iPad

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	Anna Strathy
To:	Gadi Mayman
Cc:	Ronald Kwan; Mike Manning
Subject:	FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 5:04:28 PM

Hi Gadi,

CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.

Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM

To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony

stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	John Kim
To:	Ronald Kwan
Subject:	FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 23, 2017 1:19:14 PM

Fyi. Not sure why CQSD is already involved but seems to be.

From: Anna Strathy
Sent: Wednesday, August 23, 2017 1:15 PM
To: John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; IOD_RPA <IOD_RPA@ofina.on.ca>
Cc: John Psinas <John.Psinas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi John, Bruno,

We've received a request to provide the IOD impact of the FHP if the Province had to assume the financial obligations but **by fiscal year** and displayed in chart form. Currently in the draft submission we outline what the worst case IOD impact would be if we assumed the debt at its peak.

I recall back in March a spreadsheet on this had been put together (with assistance from the IOD group), but not sure what/where the latest version would be. If you have it hand, could we have a simple table/chart that summarizes the impact by year?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Wednesday, August 23, 2017 9:10 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt.

I was hoping to see a chart with the yearly amounts over the term of the loans with corresponding estimated amounts.

The submission itself is has a number of components, the process established around the financing activities, the financing costs principal and interest, the potential liabilities to the Province, the communication vehicle (through Public Accounts) and the risks associated with each step.

The submission is very high level, but would like some details on the various components. You already initiated the communication risk mitigation with COMMs.

I think it would be good to show the actual process itself.

We can talk about this today.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 22, 2017 5:06 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Actually Anthony, taking a closer look I see we actually outlined the estimated IOD costs in the Tb submission draft (2nd last paragraph, page 3 of 5).

Hopefully this answers your question.

Thanks,
Matt

From: Anna Strathy
Sent: Tuesday, August 22, 2017 4:43 PM
To: Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony,

If you can give me a call at 416-212-1071 when you have time we can discuss, the question is not as simple as it may seem on the surface.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 22, 2017 2:44 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Further to an email from John Psinas on August 17 5:05 and 5:06pm, can you please provide the estimated amounts of the IOD expense MOF would have if the Province had to assume the financial obligations of the financing entity.

I will need a walk through on the submission once it is finalized.

Do you have an idea when you expect to have an updated submission.

Thanks,
Anthony

From:	Anna Strathy
To:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; Mike Manning; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); John Kim; Carlos Yep
Subject:	FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Monday, September 11, 2017 2:45:06 PM
Attachments:	TB20 Submission_Provincial Support Agreement_V5 with comments (2).docx FW For Review and Comment TBMBC Submission on Provincial Guarantee .msg

FYI, comments from Energy on the TB submission, attached in track changes, and below in email. I'm attaching my most recent request for Energy input so you have a sense of where I asked them to focus their remarks.

I will incorporate these comments into the version tracking for Gadi's signature at eod today.

Anna

From: Cox, Hilary (ENERGY) [mailto:Hilary.Cox@ontario.ca]
Sent: Monday, September 11, 2017 2:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Martin Schlaepfer (MOF) <Martin.Schlaepfer@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>
Subject: Fw: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna -
Attached are edits to the TB sub as well as comments from our Legal below. Note that these are still with Energy MO.

Please also note LSB's comments:

"The discussions around a cap on liability are still ongoing and I don't have any updates on the status of the financing plan.

In terms of the likelihood of the triggering events (*i.e.*, future legislative action or adverse judicial determination), I think any guess would be wholly speculative. I would prefer simply to indicate that the province has undertaken to assume the risk associated with future legislative changes (which are within the province's control) or adverse judicial determination (which would be a direct result of the model adopted by the province)."

HC

PROVINCIAL SUPPORT AGREEMENT TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the support agreement, the Province would pay when due amounts in respect of the ~~debt~~ obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a support agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

~~(ii)~~ to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

(ii)

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

(iii)

(iv) specify a maximum liability for the guarantee or indemnity.

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Commented [RK1]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amount determination, or cumulative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS2]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

~~(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%~~, on average~~, for a typical residential consumer, and holding increases to the rate of inflation for four years. As part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system).~~The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.~~ This would be achieved by spreading the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for or benefit from the province's multi-billion dollar investments in electricity infrastructure.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years.~~ This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report back by the Ministry of Energy.~~ The Ministry of Energy will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the "OFHPA"~~Act~~)~~,~~, which enables GA Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected over four years. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset". ~~which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account.~~

The OFHPA~~Act~~ provides for the IESO to sell all or a portion of the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers

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in the future. Under the OFHPA~~Act~~, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the OFHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers. ~~Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible~~ ratepayers~~.~~

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG ~~is~~, therefore, has advised~~requesting~~ that the Government of Ontario provide a support agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the provincial guarantee to the following circumstances~~Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Support Agreement~~:

- Actions of~~Decisions by~~ the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the OFHPA ~~of the Ontario Fair Hydro Plan Act, 2017, or amendments~~ or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- [Changes to the organization, structure or operations of IESO ~~adversely impacting the Financing Entity.~~or a change in the electricity market structure or operations that adversely affects 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.]

In the event the support agreement is triggered by one of these events, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as it comes due (without acceleration). In addition, the Province would also have the option to assume the Financing Entity's outstanding obligations and liabilities.~~take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers~~.

The support agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [ESP3]: Suggest use of this language (from an earlier ''version 3'' of this document).

Commented [MOF LSB4]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [RK5]: I'd see if Energy can share its description on this.

Commented [AS6]:

Commented [ESP7]: Recommend deleting.

This does not appear to be consistent with the latest term sheet shared on Wednesday Sept. 6. That version did not include this circumstance/event in its list of ''Assumption Events''

Commented [ESP8]: Is this consistent with Term Sheet?

Section 28 of the *Financial Administration Act (FAA), 1990* requires that the Minister of Finance's approval is required before a ministry seeks an Order in Council authorizing a guarantee or indemnity or before a ministry enters into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance, together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

Commented [ESP9]: Believe this is what is being referenced?

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Commented [ESP10]: Is there an OIC drafted or is this just a proposed approach should an OIC be required?

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the support agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the support agreement is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt, including principal and accumulated~~, along with associated~~ interest ~~payments~~.

Commented [ESP11]: Pending finalization of costs forecasts - this work is still ongoing with OPG.

In the event the support agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB12]: OPCD to review

Commented [RK13]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [ESP14]: Work is still ongoing between ENERGY and OPG regarding finalizing amounts - including interest.

Commented [MOF LSB15]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

It is important to note that, if the support agreement is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA~~Act~~ continue or not, in some form. If the payment streams from ratepayers via the collection of~~in~~ the Clean Energy Adjustment (CEA) continue,

Commented [RK16]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [ESP17]: I don't believe our TB Subs spoke to this point.

this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. COMMUNICATION PLAN

Commented [ESP18]: This section was not in earlier version - unsure of its necessity?

Key Messages

- Ontario's Fair Hydro Plan has ~~will~~ resulted in the biggest electricity rate reduction in Ontario's history.
- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we ~~are~~ moveding forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

~~7.~~9. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a support agreement, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

(ii)

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

(iii)

(iv) specify a maximum liability for the guarantee or indemnity.

~~(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

Commented [MOF LSB19]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

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APPENDIX

[Insert Final Term Sheet]

From: Anna Strathy []
To: Steen Hume (CAB) [Steen.Hume@ontario.ca]
CC: Gadi Mayman [Gadi.Mayman@ofina.on.ca]; Hilary Cox (ENE) [Hilary.Cox@ontario.ca]; Keley Katona (ENERGY) [Keley.Katona@ontario.ca]
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Friday, September 08, 2017 08:42:53
Attachment 1: TB20 Submission_Provincial Support Agreement_V5 with comments.docx

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Hi Steen,

Our lawyers have indicated that it would be prudent to have both Ministers of Energy and Finance sign the TB submission for the Provincial Support Agreement since both Ministers will recommend the OIC and both will sign the Support Agreement. Gadi is signing off on the TB submission at the end of the day today and then it will track to both DMOs for early next week.

I'm attaching the latest version of the TB submission (v.5) for your review and comment. Changes (from the version you received last Thursday) have been tracked. You'll see there remains three areas that would benefit from Energy's input:

- Maximum liability – and if analysis is still underway, would be good to indicate that
- Additional information on the Financing Plan
- Discussion of the risk/likelihood of trigger events

I also have removed the minute relating to the s. 28 request from the Minister of Energy. I understand that, because the Minister of Finance is recommending the OIC, his approval of the contingent liability is implicit.

Please don't hesitate to contact me or Gadi should you have any questions.

Thanks, Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep

<Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

PROVINCIAL SUPPORT AGREEMENT TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the support agreement, the Province would pay when due amounts in respect of the ~~debt~~ obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a support agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

~~(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

3. BACKGROUND:

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Commented [AS2]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account. The Act provides for the IESO to sell the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the Act, Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

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Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Support Agreement:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair

Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;

- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- [Changes to the organization, structure or operations of IESO ~~adversely impacting the Financing Entity.~~or a change in the electricity market structure or operations that adversely affects 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.]

Commented [AS5]:

In the event the support agreement is triggered, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as it comes due (without acceleration). In addition, the Province would also have the option to assume the Financing Entity's outstanding obligations and liabilities.~~take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers~~.

The support agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

~~———~~Section 28 of the FAA requires that the Minister of Finance's approval is required before a ministry seeks an Order in Council authorizing a guarantee or indemnity or before a ministry enters into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance, together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the support agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the support agreement is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as

Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the support agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB6]: OPCD to review

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [RK7]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

It is important to note that, if the support agreement is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB8]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK9]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

7. COMMUNICATION PLAN

Key Messages

- Ontario's Fair Hydro Plan will result in the biggest electricity rate reduction in Ontario's history.
- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we are moving forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

~~7.~~9. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a support agreement, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

~~(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

Commented [MOF LSB10]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

APPENDIX

[Insert Final Term Sheet]

From:	Whitfield, Tobias P. (MOF)
To:	Gadi Mayman; Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc:	Malle Hanslep (MOF); Michael Waterston (MOF)
Subject:	FW: Guarantee
Date:	Friday, April 21, 2017 5:23:58 PM
Attachments:	Fair Hydro Plan Act (April 20 2017) Consultation v3(MOF Legal Comments April 21).docx

Please see below our response to Energy Legal on the guarantee provisions, and attached our first draft of a provision for the legislation. We will let you know what the response is from Energy as they consider their draft over the weekend.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: April 21, 2017 5:20 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

We have discussed this with the OFA, and we have endeavoured to provide a provision that we think should allow the financial guarantee being contemplated. Please let us know if you think it provides the necessary scope for what would be required to meet the Province's needs. We deleted the existing provision, although if you think that more general contractual authority is needed, something else could be considered. However, we don't think that it is appropriate to have a statutory appropriation for such general indemnity and guarantee provisions.

We would expect that the guarantee would be capped and only provide for the repayment of the principal and interest of the debt securities of the financial asset owner, and that would usually be done in the OIC.

We don't have any experience with performance guarantees. Is there a need for the Minister of Energy to require performance by the LDCs? We were also wondering if Blakes or another party involved in these discussions might have an example of what is being considered.

We also removed the exemption from s. 28 of the FAA. We have discussed this with OFA staff, and given the importance and breadth of this Act and Program, it doesn't seem appropriate to exempt the entire Act from s. 28 of the FAA.

Best
Toby

Tobias Whitfield

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Ministry of Finance
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Phone: 416-325-1456

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.95.html[leg.state.fl.us] .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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This confidential draft document is provided for discussion purposes only. It should not be construed as representing the position adopted by the Government of Ontario on any of the topics included or not included in this document. The notes included in this document are intended only to help facilitate a discussion of the topics to which they relate. Any potential legislation is subject to the approval of the Ontario Legislature.

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A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL
TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing sites and facilities in the Province for the generation of electrical energy and the production therefrom,[2] and conservation and demand management.

The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[1] Note: please see the preamble of the *Green Energy Act, 2009.*
[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".
[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

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CONTENTS

PART I
GENERAL

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT

6. Fair adjustment, May 1, 2017 to April 30, 2018
7. Fair adjustment, May 1, 2018 to April 30, 2022

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay clean energy adjustment
9. Irrevocability of clean energy adjustment
10. Determination of clean energy adjustment
11. IESO to issue remittance notice to electricity vendors
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

18. Interpretation, portion of regulatory asset
19. Variance account
20. IESO funding shortfall
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Interpretation, investment asset
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment asset owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

103. Commencement
104. Short title

Confidential Draft

Schedule 1 Estimated finance amount

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated costs to be incurred by the IESO under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management, including storage,

(iii) energy efficiency,

(iv) 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, or

(v) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

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(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means the IESO, a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

"fair adjustment" means the determination of the rate payable for electricity in accordance with Part II; ("French")

"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner or an investment asset owner under section x; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means, in respect of a reference period, the amount determined under section 20xx for the reference period; ("French")

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

[4] Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"investment interest" means an ownership interest in the investment asset, which entitles an investment asset owner to the rights and benefits specified in the agreement under which the ownership interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the IESO funding shortfall; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

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(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

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Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

    i. The commodity price of the electricity used during the invoice period.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

    iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

    v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

    i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

    ii. A charge labelled as a "specific service charge" or "retail service charge".

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iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month.

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of its interest in the regulatory asset with the result of a named person becoming the owner of an investment interest.

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

~~(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.~~

(1) The Lieutenant Governor in Council may by order authorize the Minister of Finance, on behalf of Ontario, to agree to guarantee or indemnify,

(a) any debts, obligations, securities or **[undertakings][NTD: Does this cover the performance guarantee, and how does the Province have the authority to cause the LDCs to do what is required for the collection of the amounts, or are there issues with replacement/taking control of the activities of the LDCs?]** of the **[financial asset owner].**

[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Terms and conditions
(2) In respect of a guarantee or indemnity authorized under subsection (1), the Lieutenant Governor in Council may fix such terms and conditions as are considered advisable or may authorize the Minister of Finance, subject to any maximum liability specified for the guarantee or indemnity by the Lieutenant Governor in Council, to determine the terms, conditions and amount on which the guarantee or indemnity will be given.

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PART II
FAIR ADJUSTMENT

Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the average monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] the rate for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount.

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall

ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with such terms of payment as may

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be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation applicable at the time when the payment is due; and

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall be determined as follows:

1. Calculate the estimated finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. Add the true up amount for the reference period, as determined in accordance with the prescribed method, to the estimated finance amount calculated under paragraph 1.

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True up amount

(2) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

    i. differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

    ii. variations in billings due to variations in electricity consumption.

IESO to issue remittance notice to electricity vendors

11xx. (1) The IESO shall, in accordance with the regulations, issue a remittance notice to each electricity vendor for the electricity vendor's portion, as determined in accordance with the regulations, of the clean energy adjustment in respect of a reference period.

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment from electricity vendors [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of collecting those accounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with

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subsection (6), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Collection of outstanding amounts, regulatory asset

(6) If the total clean energy adjustment payable by specified consumers in respect of a reference period is less than the amount contemplated to be payable under the applicable fair allocation calculation made by the Financial Services Manager under Part IV, the IESO may collect the difference from specified consumers.

Electricity vendor to invoice specified consumers

12xx. (1) The electricity vendor shall issue an invoice to each specified consumer for the consumer's amount of the clean energy adjustment in accordance with the regulations.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the IESO and the investment asset owners, collect the clean energy adjustment from specified consumers [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

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2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor other than the IESO shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the regulations.

Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

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Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be

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borne by the specified consumers in respect of clean energy costs [in the absence of this Act].

2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers for each reference period.

    iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

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Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare and provide to the Minister a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred or potential transfers should be made for the purposes of this Act.

Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align the expected finance amount determined under Schedule 1 that would become due and payable during a reference period with the fair allocation amount determined for the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment for the reference period.

2. Incurrences and transfers should be implemented in a manner that, as the Financial Services Manager considers to be reasonable, is cost effective and reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

[Note for reference: List of items for consideration in regulation: (a) anticipated IESO funding shortfalls and related transfer amounts; (b) the maturities of funding obligations; (c) the availability of refinancings, redemption opportunities and liquidity terms and conditions in order to achieve the objective contemplated in section X(1)(a); (d) the availability of currency and interest rate hedging facilities for the purpose of mitigating any differences between the expected finance amounts becoming due and payable during a reference period and the fair allocation amount for the reference period; (d) the amount and potential variability of interest rates and related financing costs; (e) available capital markets in which funding obligations may be incurred.]

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Amendments to approved plan

(3) The Financial Services Manager may amend the Financing Plan at any time, without the approval of the Minister, subject to the requirements set out in this section.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in a clean energy adjustment for the reference period unless,

(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount for the reference period and the amount of the fair adjustment for the reference period].

Confidentiality of plan

(4) The Financing Plan is deemed to be a record subject to section 17 of the *Freedom of Information and Protection of Privacy Act.*

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations and make transfers in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, section [paramountcy of funding obligations] applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish one or more financing entities that may incur funding obligations and make transfers.

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

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Effect of amendment to Fair Allocation Plan

(4) No funding obligation incurred and no transfer made by the Financial Services Manager shall be affected by any inconsistency with the Financing Plan, including any inconsistency with the principles set out in section X.

PART V
THE REGULATORY ASSET

Interpretation, portion of regulatory asset

18xx. If a transfer under this Part provides for the transfer of a portion of the regulatory asset, any references in this Part to the regulatory asset are deemed to be references to the portion of the regulatory asset transferred.

[Note: This is meant to assist with clarity in the subsequent provisions.]

Variance account

19xx. (1) The Board shall issue an accounting order to authorize the IESO to do the following:

1. Create a variance account for the purposes of this Act.

2. Record the IESO funding shortfall in the variance account from time to time.

3. Recover the IESO funding shortfall in accordance with section X and the regulations.

No hearing

(2) The order of the Board shall be made in writing and without holding a hearing.

No appeals, etc.

(3) No appeal lies from the order of the Board.

IESO funding shortfall

20xx. (1) The IESO shall determine the IESO funding shortfall for each month in the following manner:

1. Calculate the sum of all invoice amounts issued to specified consumers for the month if Part II of this Act did not apply.

2. Calculate the sum of all invoice amounts issued to specified consumers for the month.

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3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1, and make any other adjustments as may be prescribed.

Same

(2) To the extent that the IESO funding shortfall for any month is based on an estimate of the electricity used by specified consumers, the IESO shall record an adjustment in the variance account in the following month to reflect the difference between the estimate and the electricity actually used by specified consumers.

Recording of IESO funding shortfall

(3) IESO shall record the IESO funding shortfall from time to time, including adjustments resulting from the exercise of the right of recovery under section 21 and any transfer under section 22, in the variance account.

Recording determinative

(4) A recording of the IESO funding shortfall in the variance account is determinative of the amount of IESO funding shortfall at the time of the recording.

Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the IESO funding shortfall.

Same, restrictions

(2) The IESO's right to recover the IESO funding shortfall under subsection (1) is subject to the following:

1. The IESO shall not be entitled to collect the IESO funding shortfall from specified consumers before May 1, 2022.

2. The process by which the IESO may recover the IESO funding shortfall shall be established by the Board, having regard to the amount of the IESO funding shortfall from time to time and the [fair allocation calculation].

3. Such other restrictions as may be prescribed.

Transfer of regulatory asset

22xx. (1) The IESO may transfer all or a portion of the regulatory asset to any financing entity under the Financing Plan, which transfer creates the investment asset.

Same

(2) Upon receipt of any payment in consideration for the transfer,

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(a) the IESO shall record the payment as a reduction of the IESO funding shortfall in the variance account; and

(b) unless otherwise provided for in this Act, the IESO shall have no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

Same

(3) Upon transfer, the financing entity becomes an investment asset owner and acquires an investment interest.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment asset owner of the regulatory asset, and the investment asset created by the transfer shall be immediately vested in the transferee.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Interpretation, investment asset

24xx. If a transfer under this Part provides for the transfer of an investment asset, any references in this Part to the investment interest are deemed to be references to the specific investment interest transferred.

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Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests without duplication:

1. The right to impose, bill, invoice, collect and receive the clean energy adjustment from specified consumers, including the right to determine the amount of the clean energy adjustment in accordance with this Act.

2. The right to receive and collect all amounts in respect of the clean energy adjustment that are imposed, billed and invoiced under this Act, including any amounts that all amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge, bill and invoice the clean energy adjustment.

5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of the clean energy adjustment.

6. All rights of any kind (whether in tort, contract or otherwise) that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset owner's regulatory asset.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether such revenue, collections, claims, payments and proceeds are imposed, invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

No set off, etc.

(2) The investment asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, an agent of the investment asset owner or an owner of distribution system assets in the Province;

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(b) in connection with any default, bankruptcy, reorganization or other insolvency proceeding of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with section [xx] of the *Personal Property Security Act*.

Collective action required

(4) If the investment asset owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment asset owner collectively and in coordination with all other investment asset owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment asset owner as a collective in accordance with its terms. [Note: Successors may need to be addressed here.]

Transfer of investment interest

26xx. An investment asset owner may transfer all or a portion of its rights and interests in an investment interest to any other investment asset owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the owner of the investment interest acquired a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment asset owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

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Priority of transfer, assignment, etc.

(4) Subsection (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 investment asset owner shall have priority over any liens in favour of such other persons.

Investment asset owner may grant security interest

28xx. (1) An investment asset owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by the owner of an investment interest to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment asset owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [investment asset account] or other account of any electricity vendor, the IESO, an agent of an electricity vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

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PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment asset owner or a secured party, order the sequestration and payment of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment asset owner or secured party by any person or entity authorized to collect the clean energy adjustment, defaults on any required remittance of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Same

(3) An order under subsection (1) shall remain in full force and effect despite any bankruptcy, reorganization or other insolvency proceedings with respect to the person or entity who is subject to the order.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

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No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required with respect to the actions to be taken in compliance with this Act, including actions to be taken under the Financing Plan or in relation to the establishment of the Fair Allocation Plan.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under this section unless the prescribed requirements, if any, are satisfied.

~~**Non-application, Financial Administration Act, s. 28**~~[7]

~~**37xx.** Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.~~**[NTD: We have discussed this with OFA staff, and given the importance and breadth of this Act and Program, it doesn't seem appropriate to exempt the entire Act from s. 28 of the FAA.]**

Regulations

38xx. The Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act….

(b) prescribing types of payment obligations that constitute funding obligations;

(a) governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment.

[7] ~~Note – see s. 51 of the Electricity Act, 1998~~

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(b) governing the inclusion of adjustments under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments.

[Note: reg-making powers to be dealt with in subsequent draft]

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under that Act and engaging in activities to

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facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including the following:

1. Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by the *Ontario Fair Hydro Plan Act, 2017* subject to the right of reimbursement from amounts available to the financing entity.

2. Preparing reports on behalf of the financing entity.

3. Enforcing the rights of the financing entity.

4. Signing offering documents as sponsor or otherwise on behalf of the financing entity.

5. Exercising the powers and performing the duties of the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*

6. Issuing non-equity securities in Ontario Power Generation Inc. or on if its subsidiaries, for the purpose of raising funds to acquire debt or equity interests in a financing entity whose activities are limited to the incurrence of funding obligations pursuant to the *Ontario Fair Hydro Plan Act, 2017*.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a

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subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* would be amended by adding the following paragraph:

6. To facilitate the implementation of the [TBD - language should link up with language from new Act.]

205x. Section 70 of the Act would be amended by adding the following subsection

[Note - still need to draft new subs. 70 (2.1)]

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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SCHEDULE 1
ESTIMATED FINANCE AMOUNT

Estimated finance amount

1. The estimated finance amount for a reference period shall be determined by estimating, prior to the start of a reference period, the sum of the following:

1. The sum of all amounts that are payable during the reference period by or on behalf of the investment asset owners to satisfy an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase, of all or a portion of the amount advanced to the owners under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

2. The sum of all funding costs for the reference period, determined as follows:

    i. Calculate the aggregate of all interest, scheduled principal and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of investment assets owners during the reference period in respect of all funding obligations, including such amounts as may be prescribed.

    ii. Calculate the sum of the aggregate of all amounts received by or on behalf of investment asset owners during the reference period in respect of all funding obligations and such other amounts as may be prescribed.

    iii. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

3. The sum of all amounts payable during the reference period by or on behalf of investment asset owners to redeem, prepay or repurchase a funding obligation, including any premium, make-whole or other amount becoming payable under a funding obligation to give effect to the redemption, prepayment or repurchase.

4. The balance of the finance reserve at the end of the reference period, as determined under section 3 to this Schedule.

5. The sum of any other amounts payable during the reference period by or on behalf of investment asset owners that were incurred or committed to directly or indirectly in connection with the incurrence of funding obligations under the Financing Plan during the reference period, which may include such amounts as may be prescribed.

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Funding costs

2. For the purposes of paragraph 2 of section 1 to this Schedule, the funding costs for a reference period are determined by taking the following steps:

Finance reserve balance

3. (1) For the purposes of paragraph 4 of section 1 to this Schedule, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

1. Calculate the sum of all amounts deposited by or on behalf of investment asset owners during the reference period in order to pre-fund, collateralize, over-collateralize or establish reserves for the ultimate payment of funding obligations or for related contingencies specified in the Financing Plan.

2. Calculate the sum of all amounts withdrawn by or on behalf of investment asset owners during the reference period from deposits previously made as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

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From:	Hanslep, Malle (MOF)
To:	Ken Kandeepan; Mike Manning; Ronald Kwan
Cc:	Tobias P. Whitfield (MOF); Michael Waterston (MOF)
Subject:	FW: Guarantee
Date:	Friday, April 21, 2017 2:41:57 PM
Attachments:	LAWS OF THE STATE OF NEW YORK - CHAPTER 173 OF 2013.docx summary of securitization provisions in LIPA Reform Act.docx Summary of Duke Energy Securitization.docx Moody"s - Securities Backed by Utility Cost Recovery Charges Jun 2015.pdf Moody"s - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf Moody"s - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf Moody"s - Duke Energy Florida Project Finance, LLC Series A Bonds.pdf S&P - List of S&P Rated Stranded Cost Transactions (2013).pdf S&P - Securitizing Stranded Costs_S&P Criteria (2001).pdf Fair Hydro Plan Act (April 20 2017) Consultation v3.docx

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From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:38 PM
To: Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Whitfield, Tobias P. (MOF); Waterston, Michael (MOF)
Subject: FW: Guarantee

Some more information sent by Carolyn.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.95.html[leg.state.fl.us] .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen

some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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ASSEMBLY BILL #**A8073** SAME AS SENATE BILL #**S5844**

LAWS OF NEW YORK, 2013

CHAPTER 173

AN ACT to amend the public service law, the public authorities law, the executive law and the education law, in relation to the powers and duties of the department of public service and the Long Island power authority; to repeal subdivision (u) of section 1020-f of the public authorities law relating to general powers of the authority; and providing for the repeal of certain provisions upon expiration thereof (Part A); and in relation to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority (Part B)

Became a law July 29, 2013, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation relating to issues deemed necessary by the state. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with a particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found.

Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 3 of the public service law, as amended by chapter 8 of the laws of 2012, is amended and a new section 3-b is added to read as follows:

§ 3. Department of public service. [~~1.~~] There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.

[~~2. The department shall, upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of said authority pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or~~

EXPLANATION--Matter in ***italics*** is new; matter in brackets [-] is old law

to be omitted.

~~CHAP. 173 2~~

~~by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the Long Island power authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.~~]

§ 3-b. Long Island office of the department.

1. There is hereby established in the department an office to review and make recommendations with respect to the operations and terms and conditions of service of, and rates and budgets established by, the Long Island power authority and/or its service provider.

2. Definitions. As used or referred to in this section:

(a) "Authority" means the Long Island power authority.

(b) "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract. However, the service provider and any affiliate of the service provider with whom the authority or service provider contracts to provide services associated with the authority's electric transmission and distribution system shall not be considered an electric corporation under this chapter.

(c) "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the Long Island power authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

3. General powers. In undertaking the requirements of this section, subject to subdivisions (u) and (bb) through (hh) of section one thousand twenty-f of the public authorities law, the department shall be empowered and authorized to:

(a) Review and make recommendations to the board of the Long Island power authority with respect to the rates and charges, including charges related to energy efficiency and renewable energy programs, to be established by the authority and become applicable on or after January first, two thousand sixteen pursuant to subdivision (u) of section one thousand twenty-f of the public authorities law.

(i) The purpose of such review is to make recommendations designed to ensure that the authority and the service provider provide safe and adequate transmission and distribution service at rates set at the lowest level consistent with sound fiscal operating practices.

(ii) The department's recommendations shall be designed to be consistent with ensuring that the revenue requirements related to such rate review are sufficient to satisfy the authority's obligations with respect to its bonds, notes and all other contracts.

(iii) In the context of such review, the department may not make any recommendation that would modify the compensation or fee structure included within the operations services agreement.

(iv) In undertaking such review and in making recommendations related to the proposed rates and charges, the department shall establish standards,

policies and procedures that, at a minimum, provide for public statement and evidentiary hearings and participation of intervenors and other parties, and ensure that any final recommendations related to the proposed rates and charges are provided to the authority within two hundred forty days of the filing with the department of such plan.

(v) The parties to any such rate review proceeding shall include, but not be limited to, department staff, the authority, the service provider and, to the extent it deems necessary or appropriate, the utility intervention unit.

(b) Review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the service provider as in the department's judgment allows for safe and adequate service.

(c) Annually review the emergency response plan of the authority and the service provider in accordance with the following requirements:

(i) Examine and determine whether the emergency response plan is consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of this chapter and any regulations or orders promulgated thereto, and to recommend amendments of same; and

(ii) Review and make recommendations to the authority with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and its service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, the reasonableness of costs associated with such emergency response, the costs, if any, that were unreasonably and imprudently incurred by the service provider, and whether the service provider would be liable for any such costs pursuant to the terms and conditions of the operations services agreement.

(d) Upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of the authority and service provider pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department

according to such terms as the department may determine are necessary and reasonable.

(e) Accept, investigate, mediate to resolve and make recommendations to the Long Island power authority and/or the service provider regarding the resolution of complaints from consumers in the authority's service

territory relating to, among other things, the provision of electric service provided by the service provider and/or the authority.

(f) Review the net metering program implemented under subdivision (h) of section one thousand twenty-g of the public authorities law and make recommendations designed to ensure consistency with the requirements of sections sixty-six-j and sixty-six-l of this chapter, and any regulations and orders adopted thereto.

(g) Review and make recommendations with respect to any proposed plan submitted by the Long Island power authority and/or the service provider related to implementation of energy efficiency measures, distributed generation or advanced grid technology programs having the purpose of providing customers with tools to more efficiently and effectively manage their energy usage and utility bills, and improving system reliability and power quality.

(h) Review the data, information and reports submitted pursuant to subdivision (hh) of section one thousand twenty-f of the public authorities law and other pertinent information related to the metrics in the operations services agreement, the Long Island power authority's evaluation of such data, information and reports, and make recommendations to the authority with respect to the service provider's annual incentive based compensation within thirty days of receipt of such evaluation and information.

4. Review and inspection. To undertake the requirements of subdivision two of this section, the department shall be authorized to inspect all premises and facilities owned or operated by the authority and the service provider, review all books and records of the authority and the service provider, interview all appropriate personnel, and require annual reporting consistent with the requirements of subdivision six of section sixty-six of this chapter and any regulations and orders adopted thereto; provided, however, that this authority shall not extend to affiliates of the service provider.

§ 2. Subdivision 2 and paragraph (b) of subdivision 6 of section 18-a of the public service law, subdivision 2 as amended by section 2 of part NN of chapter 59 of the laws of 2009 and paragraph (b) of subdivision 6 as amended by section 1 of part BB of chapter 59 of the laws of 2013, are amended and a new subdivision 1-a is added to read as follows:

1-a. All costs and expenses of the department related to the department's responsibilities under section three-b of this chapter shall be paid pursuant to appropriation on the certification of the chairman of the department and upon the audit and warrant of the comptroller. For the state fiscal year beginning on April first, two thousand fourteen and each state fiscal year thereafter, payments are to be made from all moneys collected from the Long Island power authority pursuant to this section. The total of such costs and expenses shall be assessed on such authority in the manner provided in subdivisions two, three and four of this section.

2. (a) The chairman of the department shall estimate prior to the start of each state fiscal year the total costs and expenses, including the compensation and expenses of the commission and the department, their officers, agents and employees, and including the cost of retirement contributions, social security, health and dental insurance, survivor's benefits, workers' compensation, unemployment insurance and other fringe

benefits required to be paid by the state for the personnel of the commission and the department, and including all other items of maintenance and operation expenses, and all other direct and indirect costs. Based on such estimates, the chairman shall determine the amount

to be paid by each assessed public utility company **and the Long Island power authority** and a bill shall be rendered to each such public utility company **and authority**.

(b) The bill for each public utility company **and the Long Island power authority** shall be rendered on or before February first preceding each fiscal year, and shall be for the amount equal to the product of the aforesaid estimated costs and expenses of conducting the department's and commission's total operations during the fiscal year for which billing is being made multiplied by the proportion which compares:

(1) the gross operating revenues, over and above five hundred thousand dollars, for that utility company **or the authority** derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to:

(2) the total of the gross operating revenues, derived from intrastate utility operations for all utility companies **and the authority** in the state which revenues are included under subparagraph one of this paragraph.

For the purposes of calculating the commodity cost component of its gross operating revenue, where the utility delivers to end-use customers electricity and/or natural gas commodities that are sold to such customers by a third party, such utility shall include in its revenues an estimate of the sales revenue for the electric and/or natural gas commodities that it delivers, including all such commodities sold to end-use customers by third parties, in such manner as to assure that all end-use delivery customers, regardless of the entity from which they purchase their electric and/or natural gas commodities, bear a fair and proportionate share of the assessment imposed herein, as the commission may determine.

(c) The minimum assessment for any utility company**, as well as the Long Island power authority,** whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

(d) The amount of such bill for fiscal years beginning on or after April first, nineteen hundred eighty-three so rendered shall be paid by such public utility company **and such authority** to the department on or before April first; provided, however, that [~~a~~] **any such** utility company **or such authority** may elect to make partial payments for such costs and expenses on March tenth of the preceding fiscal year and on September tenth of such fiscal year. Each such partial payment shall be a sum equal to fifty percentum of the estimate of costs and expenses to be assessed against such utility company **or authority** under the provisions of this subdivision and shall not be less than two hundred dollars.

(e) During the course of any state fiscal year, the chairman may increase or decrease the estimate of costs and expenses. In such case, revised bills shall be sent to each public utility company **and such authority**, and such increase or decrease shall be equally apportioned against the remaining payments for such fiscal year.

(f) On or before October tenth of each year, the chairman shall compute the actual costs and expenses of the department and the commission and adjustments or other corrections as needed for the preceding state fiscal year and, after deducting the amounts recovered pursuant to subdivisions three and four of this section, shall, on or before October twentieth, send to each public utility company **and/or the authority** affected thereby a

statement setting forth the amount due and payable by, or the amount standing to the credit of, such public utility company **and/or the authority**. Any amount owing by any public utility company

and/or the authority shall be paid not later than thirty days following the date such statement is received. Any such amount standing to the credit of any public utility company shall be refunded by the commission or, at the option of such utility company, shall be applied as a credit against any succeeding payment due.

(g) The total amount which may be charged to any public utility company **and the Long Island power authority** under authority of this subdivision for any state fiscal year shall not exceed one per centum of such public utility company's **or authority's** gross operating revenues derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman; provided, however, that no corporation or person that is subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the general assessment provided for under this subdivision.

Notwithstanding the provisions of subdivision one of this section, for telephone corporations as defined in subdivision seventeen of section two of this article, the total amount which may be charged such corporations for department expenses under the authority of subdivision one of this section for any state fiscal year shall not exceed one-third of one percentum of such corporation's gross operating revenue, over and above five hundred thousand dollars, derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman.

(h) On-bill recovery charges billed pursuant to section sixty-six-m of this chapter shall be excluded from any determination of an entity's gross operating revenues derived from intrastate utility operations for purposes of this section.

(b) The temporary state energy and utility service conservation assessment shall be based upon the following percentum of the utility entity's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, minus the amount, if any, that such utility entity is assessed pursuant to subdivisions one and two of this section for the corresponding state fiscal year period: (1) two percentum for the state fiscal year beginning April first, two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) one and three-quarters percentum for the state fiscal year beginning April first, two thousand fifteen; and (3) one and one-half percentum for the state fiscal year beginning April first, two thousand sixteen. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, utility entities shall make a payment equal to one-half of the assessment paid by such entities pursuant to this paragraph for the state fiscal year beginning on April first, two thousand sixteen. With respect to the Long Island power authority, the temporary state energy and utility service conservation assessment shall be based upon the following percentum of such authority's gross operating revenues derived from intrastate utility operations in the last preceding calendar year**, minus the amount, if any, that such authority is assessed pursuant to subdivisions one-a and two of this section for the corresponding state fiscal year period**: (1) one percentum for the state fiscal year beginning April first,

two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) three- quarters of one percentum for the state fiscal year beginning April

first, two thousand fifteen; and (3) one-half percentum for the state fiscal year beginning April first, two thousand sixteen**; provided, however, that should the amount assessed by the department for costs and expenses pursuant to such subdivisions equal or exceed such authority's temporary state energy and utility service conservation assessment for a particular fiscal year, the amount to be paid under this subdivision by such authority shall be zero**. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, the Long Island power authority shall make a payment equal to one-half of the assessment it paid for the state fiscal year beginning on April first, two thousand sixteen. No corporation or person subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the temporary state energy and utility service conservation assessment provided for under this subdivision. Utility entities whose gross operating revenues from intrastate utility operations are five hundred thousand dollars or less in the preceding calendar year shall not be subject to the temporary state energy and utility service conservation assessment. The minimum temporary state energy and utility service conservation assessment to be billed to any utility entity whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

§ 3. Section 1020-b of the public authorities law is amended by adding two new subdivisions 23 and 24 to read as follows:

23. "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract.

24. "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

§ 4. Section 1020-d of the public authorities law, as added by chapter 506 of the laws of 1995, is amended to read as follows:

§ 1020-d. [~~Trustees~~] **Board of trustees**.

1. [~~The~~] **Starting on January first, two thousand fourteen, the board of the** authority shall **be constituted and** consist of [~~fifteen~~] **nine** trustees all of whom shall be residents of the service area, [~~nine~~] **five** of whom shall be appointed by the governor, one of whom the governor shall designate as [~~chairman~~] **chair**, and serve at his **or her** pleasure, [~~three~~] **two** of whom shall be appointed by the temporary president of the senate, and [~~three~~] **two** of whom shall be appointed by the speaker of the assembly. [~~Two~~] **One** of the governor's appointees shall serve an initial term of [~~one year~~] **two years**; [~~two~~] **one** of the governor's appointees shall serve an initial term of [~~two~~] **three** years; [~~two~~] **and three** of the governor's appointees shall serve an initial term of [~~three~~] **four** years[~~; and three of the governor's appointees shall serve an initial term of four years~~]. [~~Two~~] **One** of the appointees of the temporary president of the senate and [~~two~~] **one** of the appointees of the speaker of the assembly shall serve initial terms of [~~one year~~] **two years**;

and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of [~~two~~] **three** years. Thereafter, all terms

shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.

2. No trustee shall receive a salary, but each shall be entitled to reimbursement for reasonable expenses in the performance of duties assigned hereunder.

3. Notwithstanding the provisions of any other law, no trustee, officer or employee of the state, any state agency or municipality appointed a trustee shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of a trusteeship on the authority, his or her service thereon or his or her employment therewith.

4. All trustees appointed under this section shall have relevant utility, corporate board or financial experience.

§ 5. On or before December 1, 2013 the governor, the temporary president of the senate and the speaker of the assembly shall choose and announce their appointments to the board of the Long Island power authority to be made pursuant to section 1020-d of the public authorities law, as amended by section four of this act, giving due consideration to continuity of business. The board of trustees of the Long Island power authority in existence on December 31, 2013, shall be abolished on such date and be constituted on January 1, 2014 pursuant to section 1020-d of the public authorities law, as amended by section four of this act.

§ 6. Subdivision (u) of section 1020-f of the public authorities law is REPEALED.

§ 7. Subdivisions (c) and (bb) of section 1020-f of the public authorities law, subdivision (c) as amended by chapter 506 of the laws of 2009 and subdivision (bb) as added by chapter 8 of the laws of 2012, are amended and seven new subdivisions (u), (cc), (dd), (ee), (ff), (gg) and (hh) are added to read as follows:

(c) To appoint officers, agents and employees, without regard to any personnel or civil service law, rule or regulation of the state and in accordance with guidelines adopted by the authority, prescribe their duties and qualifications and fix and pay their compensation [~~**, provided, however, that the appointment of the chief executive officer shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter;**~~]**. By January first, two thousand fourteen, the authority, through its governance committee, shall amend such guidelines to require that staffing at the authority is kept at levels only necessary to ensure that the authority is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and oversee the activities of the service provider**;

(u) Rate plans. Subject to subdivision six of section one thousand twenty-k of this title to fix rates and charges for the furnishing or rendition of gas or electric power or of any related service at the lowest level consistent with sound fiscal and operating practices of the authority and which provide for safe and adequate service. In implementing this power:

1. The authority and the service provider shall, on or before February first, two thousand fifteen, submit for review to the department of public service a three-year rate proposal for rates and charges to take effect on or after January first, two thousand sixteen.

2. The authority and the service provider shall thereafter submit for review to the department of public service any rate proposal that would increase the rates and charges and thus increase the aggregate revenues of the authority by more than two and one-half percent to be measured on an annual basis; provided, however, that the authority may place such rates and charges into effect on an interim basis, subject to prospective rate adjustment; provided, further, that a final rate plan issued by the authority that would not so increase such rates and charges shall not be subject to the requirements of paragraph four of this subdivision and shall be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The authority and/or the service provider may otherwise submit for review to such department any rate proposal irrespective of its effect on revenues.

3. The authority shall not fix any final rates and charges proposed that would not be subject to review by the department of public service pursuant to paragraphs one and two of this subdivision until after holding public hearings thereon upon reasonable public notice, with at least one such hearing to be held each in the county of Suffolk and the county of Nassau.

4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of its final rate plan and such final determination shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency.

At such hearing, the department of public service shall present the basis for its recommendations, the board shall present the basis for its determination of inconsistency and the service provider may present its position. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(bb) Comprehensive and regular management and operations audits.

1. The authority **and the service provider** shall cooperate in the undertaking and completion of a regular and comprehensive management and operations audit conducted pursuant to the requirements of this subdivision and [~~subdivision two of section three~~] **paragraph (d) of subdivision three of section three-b** of the public service law. Such audit shall review and evaluate the [~~authority's~~] overall operations and management

of the authority and service provider, including [~~the authority's~~] such operations and management in the context of [~~its~~] the authority's duty to set rates at the lowest level consistent with standards and procedures provided in subdivision (u) of this section, and include, but not be limited to: (i) the [~~authority's~~] service provider's construction and capital program planning in relation to the needs of [~~its~~] customers for reliable service; (ii) the overall efficiency of the authority's and service provider's operations; (iii) the manner in which the authority is meeting its debt service obligations; (iv) the authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the authority's and service provider's annual budgeting procedures and process; (vi) the application, if any, of the performance metrics designated in the operations services agreement and the accuracy of the data relied upon with respect to such application; and [~~(vi)~~] (vii) the authority's compliance with debt covenants.

2. The department of public service shall notify the authority that said department is in the process of initiating a comprehensive management and operations audit as described in paragraph one of this subdivision in a manner that ensures the timeliness of such audit, and in accordance with the following timeframe: the first comprehensive management and operations audit shall be initiated as of the effective date of [~~this subdivision~~] chapter eight of the laws of two thousand twelve and undertaken in a manner and to an extent that is practicable in the context of the authority's transition to a new management service structure; the second comprehensive management and operations audit shall be initiated no later than December fifteenth, two thousand [~~fifteen~~] sixteen; and all additional comprehensive management and operations audits shall be initiated at least once every five years thereafter.

Within a reasonable time after such notification to the authority, said department or the independent auditor retained by the authority to undertake such audit shall hold public statement hearings, with proper notice, in both Nassau and Suffolk counties for the purpose of receiving both oral and written comments from the public on matters related to such audit as described in paragraph one of this subdivision.

3. Each such audit shall be completed within eighteen months of initiation absent an extension for good cause shown by the department of public service or the independent auditor under contract with the authority with notice of such extension to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the authority and the department of public service. Such audit shall be provided to the board of the authority immediately upon its completion.

The department of public service shall provide notice of completion of such audit to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and assembly, and the authority, upon receipt of such audit, shall post a copy of such audit, including findings and recommendations, on its website and the website of the service provider. Unless the board of the authority makes a preliminary determination that any particular finding or recommendation contained in such audit is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligation, or the provision for safe and adequate service, the board shall implement or cause its service provider to implement such findings and recommendations in accordance with the timeframe specified under such audit.

4. The board of the authority shall make any preliminary determination of inconsistency with respect to any such finding or recommendation

within thirty days of receipt of the audit, with notice and the basis of such determination being provided to the department of public service.

Such notice and basis shall be posted contemporaneously on the authority's website **and the website of the service provider** and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency **and the service provider may present is position**. The authority**, service provider** and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The [~~**board's**~~] **authority's** final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, prepare and maintain an emergency response plan (i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where wide-spread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider.

2. On or before February third, two thousand fourteen, the authority and service provider shall submit an emergency response plan to the department of public service for review. Contemporaneously with such submission, the authority shall provide notice of such proposed plan to the secretary of state for publication in the state register, the authority and service provider each shall post such plan on their websites and otherwise make such plan available for review in-person, and afford members of the public an opportunity to submit written comments and oral comments pursuant to at least one hearing to be held each in the county of Suffolk and the county of Nassau. Such written comments must be submitted by March fourteenth, two thousand fourteen.

The authority and service provider shall provide a copy of all written comments they receive and a transcript of such public hearings to the department of public service for its consideration in reviewing the emergency response plan. The department shall provide any recommendations to the authority and service provider with respect to such plan on or before April fifteenth, two thousand fourteen. Such plan must be made final by June second, two thousand fourteen. For each year thereafter, the service provider shall submit an emergency response plan to the department of public service, and such department shall provide its recommendations, in accordance with a schedule to be established by such department and that is consistent with the schedule associated with such department's review of similar such plans provided by electric corporations pursuant to subdivision twenty-one of section sixty-six of the public service law.

3. By June second, two thousand fourteen, and by June first annually thereafter, the authority and service provider shall jointly certify to the department of homeland security and emergency services that the emergency response plan ensures, to the greatest extent feasible, the timely and safe restoration of energy services after an emergency consistent with the requirements of paragraph (a) of subdivision twenty-one of the public service law and the department's recommendations. The filing of such emergency response plan shall also include a copy of all written mutual assistance agreements among utilities. The authority and service provider shall file with the county executives of Nassau and Suffolk county and the mayor of the city of New York the most recent version of the emergency response plan, and make sure that such amended versions are timely filed.

4. Starting in calendar year two thousand fourteen, the service provider annually shall undertake at least one drill to implement procedures to practice its emergency response plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials.

5. If, during an emergency event, electric service is not restored in three days, the service provider shall within sixty days from the date of full restoration file with the department a report constituting a review of all aspects of the preparation and system restoration performance during the event, and shall thereafter take into consideration any recommendations made by the department associated with such review.

(dd) On or before January first, two thousand fifteen, and by January first of each calendar year thereafter, to submit for review to the department of public service a report detailing the service provider's planned capital expenditures.

(ee) On or before July first, two thousand fourteen, and annually thereafter, to submit for review to the department of public service any proposed plan related to implementing energy efficiency measures, distributed generation or advanced grid technology programs for the purpose provided pursuant to paragraph (g) of subdivision three of section three-b of the public service law.

(ff) To assist and cooperate with the department of public service with respect to any review undertaken pursuant to section three-b of the public service law, including providing the department with reasonable access to all facilities and premises owned or operated by the authority or its service provider, allowing review of all books and records of the authority and its service provider, providing copies of requested documents, allowing interviews of all appropriate personnel, and responding in a reasonable and timely manner to any inquiries or reporting requests made by the department; provided, however, that the obligations set forth in this subdivision shall not extend to affiliates of the service provider.

(gg) Renewable generation and energy efficiency programs. 1. The authority in coordination with the service provider, the power authority of the state of New York and the New York state energy research and development authority shall, to the extent the authority's rates are sufficient to provide safe and adequate transmission and distribution service, and the measures herein, undertake actions to design and administer renewable energy and energy efficiency measures in the service area, with the goal of continuing and expanding such measures that cost-effectively reduce system-wide peak demand, minimize long-term fuel price risk to rate payers, lower emissions, improve environmental quality, and seek to meet New York state climate change and environmental

goals. Such actions shall also include implementation of any renewable energy competitive procurement or feed-in-tariff programs that were approved by the authority as of the effective date of the chapter of the laws of two thousand thirteen which added this subdivision.

2. The service provider shall consider, consistent with maintaining system reliability, renewable generation and energy efficiency program results and options in establishing capital plans.

(hh) Starting in calendar year two thousand fifteen, the authority and the service provider shall submit to the department of public service for review, any and all data, information and reports which set forth the service provider's actual performance related to the metrics in the operations services agreement, including the authority's evaluation thereof, no less than forty-five days prior to the authority's determination of the service provider's annual incentive compensation.

§ 8. Section 1020-q of the public authorities law, as added by chapter 517 of the laws of 1986 and subdivision 2 as amended by section 19 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

§ 1020-q. Payments in lieu of taxes. 1. Each year after property theretofore owned by LILCO is acquired by the authority by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred, [~~except for such taxing jurisdictions which tax the Shoreham plant,in which case the in lieu of tax payments shall in the first year after the acquisition be equal to one hundred percent of the taxes and assessments which would have been received by such taxing jurisdictions. In each succeeding year such in lieu of tax payments shall be decreased by ten percent until such time as such payments equal taxes and assessments which would have been levied on such plant in a nonoperative state~~] provided, however, that for the calendar year starting on January first, two thousand fifteen, and for each calendar year thereafter, such payments in lieu of taxes shall not exceed the in lieu of tax payments made to such municipalities and school districts in the immediately preceding year by more than two percent.

2. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed [~~upon LILCO, if LILCO were to continue in operation,~~] pursuant to sections one hundred eighty-six-a and one hundred eighty-six-c of the tax law, and to former [~~sections one hundred eighty-six and~~] section one hundred eighty-six-b of the tax law as such [~~sections one hundred eighty-six and one hundred eighty-six-b were~~] section was in effect on December thirty-first, nineteen hundred ninety-nine, [~~paragraph (b) of subdivision four of section one hundred seventy-four of the navigation law,~~] and any taxes imposed by a city pursuant to the authorization granted by section twenty-b of the general city law.

3. No municipality or governmental subdivision, including a school district or special district, shall be liable to the authority or any other entity for a refund of property taxes originally assessed against the Shoreham plant. Any judicial determination that the Shoreham plant assessment was excessive, unequal or unlawful for any of the years from nineteen hundred seventy-six to the effective date of this title shall not result in a refund by any taxing jurisdiction of taxes previously paid by LILCO pursuant to such Shoreham plant assessment. The authority shall discontinue and abandon all proceedings, brought by its predecessor

in interest, which seek the repayment of all or part of the taxes assessed against the Shoreham plant.

§ 9. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined there-in, (b) article ten of such law applies to the siting of a generating facility as defined therein, [~~and~~] (c) section eighteen-a of such law provides for assessment for certain costs, property or operations**, and (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law**.

§ 10. Section 1020-w of the public authorities law, as added by chapter 517 of the laws of 1986, is amended to read as follows:

§ 1020-w. Audit and annual reports. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the [~~state division of the budget~~] **authority, upon recommendation of its finance and audit committee**. The authority shall submit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly and the county executives and governing bodies of the counties of Suffolk and Nassau, a detailed report pursuant to the provisions of section two thousand eight hundred of [~~title one of article nine of~~] this chapter, which report shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of [~~title one of article nine of~~] this chapter.

§ 11. Section 1020-cc of the public authorities law, as amended by chapter 413 of the laws of 2011, is amended to read as follows:

§ 1020-cc. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law.

1. All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state. The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

2. The authority and service provider shall provide to the state comptroller on March thirty-first and September thirtieth of each year a

report documenting each contract in excess of two hundred fifty thousand dollars per year entered into with a third party and related to management

and operation services associated with the authority's electric transmission and distribution system, including the name of the third party, the contract term and a description of services or goods to be procured, and post such report on each of their websites. All contracts entered into between the service provider and third parties are not subject to the requirements of subdivision one of this section.

§ 12. Paragraph (b) of subdivision 4 of section 94-a of the executive law, as amended by chapter 8 of the laws of 2012, is amended to read as follows:

(b) The utility intervention unit shall have the power and duty to:

(i) on behalf of the secretary, initiate, intervene in, or participate in any proceedings before the public service commission **or the department of public service**, to the extent authorized by sections **three-b,** twenty-four-a, seventy-one, eighty-four or ninety-six of the public service law or any other applicable provision of law, where he or she deems such initiation, intervention or participation to be necessary or appropriate;

(ii) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy services; [~~and~~]

(iii) accept and investigate complaints of any kind from Long Island power authority consumers, attempt to mediate such complaints where appropriate directly with such authority and refer complaints to the appropriate state or local agency authorized by law to take action with respect to such complaints[~~.~~]**; and**

(iv) hold regular forums in each of the service territories of the combination gas and electric corporations, as defined under section two of the public service law, and the Long Island power authority to educate consumers about utility-related matters and the regulatory process, opportunities to lower energy costs, including through energy efficiency and distributed generation, and other matters affecting consumers.

§ 13. Notwithstanding section 112 of the state finance law and notwithstanding any other provision of law to the contrary, including but not limited to any provision of law related to rebidding, letting or amending contracts of any amount, the Long Island Lighting Company dba LIPA is authorized to amend the operations services agreement, dated December 28, 2011, entered into with PSEG Long Island LLC, including Amendment Nos. 1 and 2 thereto, approved on June 27, 2012, solely by the following: (1) upon review and written recommendations made by the department of public service to the board of trustees of the Long Island power authority ("authority"), setting forth the reasons for and findings underlying such recommendations; and (2) adoption of a resolution by a majority of the authority's board of trustees.

§ 14. This act shall supersede the fifth project condition established in Resolution No. 97-LI-1 of the public authorities control board, dated July 16, 1997, related to the implementation of certain rate increases.

§ 15. Subdivision l of section 7208 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

l. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" **(i)** exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the

public service commission of this state, the interstate commerce commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer**, or (ii) exclusively as an officer or**

employee of the Long Island power authority or its service provider, as defined under section three-b of the public service law, by rendering to such authority or provider such services in connection with its lines and property which are located in such authority's service area and so long as such person is thus actually and exclusively employed and no longer;

§ 16. Repowering. If after the Long Island power authority, or its successor, determines, in accordance with the terms and conditions contained in the amended and restated power supply agreement ("A&R PSA"), dated October 10, 2012, between the authority and the owner of the legacy LILCO power generating facilities, that repowering any such generating facility is in the best interests of its ratepayers and will enhance the authority's ability to provide a more efficient, reliable and economical supply of electric energy in its service territory, consistent with the goal of improving environmental quality, the authority will exercise its rights under the A&R PSA related to repowering such facility, and shall enter into an agreement related to payments in lieu-of-taxes for a term commensurate with any power purchase agreement entered into related to such repowered facility, consistent with other such agreements related to generating facilities under contract to the authority in the service territory.

§ 17. This act shall take effect January 1, 2014; provided, however, that section twelve of this act shall take effect April 1, 2014, sections five, ten, eleven, thirteen, fourteen, fifteen and sixteen of this act shall take effect immediately; provided further that section thirteen of this act shall expire and be deemed repealed January 1, 2015; and provided further that the amendments to subdivision 6 of section 18-a of the public service law made by section two of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART B

Section 1. Legislative findings. The legislature hereby finds and determines:

1. On May 28, 1998, Long Island Power Authority (the authority) acquired all the capital stock and associated assets, including transmission and distribution (T&D) system assets of Long Island Lighting Company (LILCO) which does business as the retail electric utility on Long Island, New York under the name of LIPA. In connection with that acquisition, the authority took over ultimate responsibility for providing electric utility service to residential, commercial, industrial, nonprofit and governmental customers in the counties of Suffolk and Nassau and a portion of the county of Queens (hereinafter referred to as the "service area"). Such acquisition effectively converted LILCO from an investor-owned utility that was comprehensively regulated by the New York Public Service Commission (PSC) and the United States Federal Energy Regulatory Commission (FERC), to a municipal utility that is not comprehensively regulated either by the PSC or FERC.

2. Since May 28, 1998, neither the authority nor LIPA has directly operated or maintained the T&D system assets, provided electric service or billed and collected T&D rates from LIPA's customers; instead, the authority and LIPA have contracted out virtually all of these activities

to other companies. Most of these operations and service responsibilities have been contracted out to affiliates of a company now known as National Grid plc (National Grid), a multi-national electric and gas utility company organized under the laws of England and Wales pursuant to a management services agreement. Thus, while the LIPA name appears on customer bills as well as on service trucks and other equipment used in the service area,

affiliates of National Grid have been principally in charge of management and operation of the T&D system assets and providing electricity to consumers in the service area. The authority and LIPA have now contracted with affiliates of Public Service Enterprise Group and Lockheed Martin Services Inc. (PSEG-Lockheed) to provide operation and maintenance services for the T&D system assets for ten years starting January 1, 2014, when the National Grid contract expires.

3. High costs of electric utility service poses a serious threat to the economic well-being, health and safety of the residents of and the commerce and industry in the service area. High costs of electric utility service deter commerce and industry from locating in the service area and have caused existing commerce and industry to consider seriously moving out of the service area.

4. High debt and associated debt service contribute to the authority's high electric rates. The authority has approximately seven billion dollars in outstanding debt, a substantial portion of which was issued to refinance debt associated with construction of the now abandoned Shoreham nuclear power plant. The annual debt service associated with such bonds puts pressure on the authority's customer rates.

5. As of December 31, 2012, the three major rating agencies generally rated the authority's debt in the single-A range, though Moody's Investors Services assigns approximately seven hundred million dollars of the authority's debt slightly lower ratings of Baa1 and Baa2.

6. If securitized restructuring bonds were issued by a bankruptcy-remote entity with a AAA or equivalent rating in current market conditions to finance a portion of the costs of purchasing, redeeming or defeasing outstanding debt of the authority, and other associated costs, the debt service on the authority's debt could be reduced and the costs of electric utility service could be lowered.

7. Securitized restructuring bonds are likely to be most attractive to the investing public and result in the lowest possible yields if they are issued by a newly organized, special purpose public benefit corporation or other corporate municipal instrumentality of the state.

8. The purpose of this act is to provide a legislative foundation for the issuance of securitized restructuring bonds to refinance outstanding debt of the authority, a significant portion of which relates to LILCO's costs of constructing and financing the now abandoned Shoreham nuclear power plant, including the creation of restructuring property by the authority to provide for the redemption or defeasance of a portion of the outstanding debt of the authority. It is the intent of the legislature to authorize, for the purpose of reducing electric utility costs to consumers in the service area, the following: (a) the organization of a restructuring bond issuer as a special purpose corporate municipal instrumentality of the state, created for the limited purpose of issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt of the authority and associated costs, which securitized restructuring bonds create no new financial obligations or liabilities for the authority or for the state; and (b) implementation of contracts with owners of the securitized restructuring bonds through a

statutory pledge and agreement that the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds until those bonds are no longer outstanding and all

amounts due and owing under the related transaction documents have been paid in full.

9. Accordingly, the issuance of securitized restructuring bonds is expected to result in lower aggregate distribution and transmission charges and transition charges, compared to other available alternatives.

§ 2. Definitions. As used or referred to in this act, unless a differing meaning clearly appears from the context:

1. "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement or arrangement entered into in connection with the issuance of restructuring bonds that is designed to promote the credit quality and marketability of such restructuring bonds or to mitigate the risk of an increase in interest rates.

2. "Approved restructuring costs" means, to the extent approved as such under a restructuring cost financing order,

(a) costs of purchasing, redeeming or defeasing a portion of outstanding debt of the authority, including bonds and notes issued by the authority, debt issued by the New York state energy research and development authority for the benefit of the LILCO;

(b) costs of terminating interest rate swap contracts and other financial contracts entered into by or for the benefit of the authority and related to debt obligations of the authority;

(c) rebate, yield reduction payments and any other amounts payable to the United States Treasury or to the Internal Revenue Service to preserve or protect the federal tax-exempt status of outstanding debt obligations of the authority; and (d) upfront financing costs associated with restructuring bonds.

3. "Assignee" means any individual, corporation, limited liability company, partnership or limited partnership, trust or other legally-recognized entity to which an interest in restructuring property is assigned, sold or transferred, other than as security, including any assignee of that party.

4. "Authority" means Long Island Power Authority, a corporate municipal instrumentality and political subdivision of the state.

5. "Consumer" means any individual, governmental body, trust, business entity, nonprofit organization or other legally-recognized entity that takes electric delivery service within the service area by means of electric transmission or distribution facilities, whether those electric transmission or distribution facilities are owned by LIPA or any other entity.

6. "Financing cost" means the costs to issue, service, or repay restructuring bonds, whether incurred upon issuance of such restructuring bonds or over the life of the restructuring bonds, and approved for recovery in a restructuring cost financing order. Without limitation, "financing cost" may include, as applicable, any of the following:

(a) principal, interest and redemption premiums payable on restructuring bonds;

(b) any payment required under an ancillary agreement and any amount required to fund or replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds;

(c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and

(d) any cost related to issuing restructuring bonds, administering the restructuring bond issuer and servicing restructuring property and

restructuring bonds, or related to the efforts to prepare or obtain approval of a restructuring cost financing order, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, trustee fees and expenses, legal fees and expenses, accounting fees and expenses, administrative fees and expenses, placement fees, underwriting fees, fees and expenses of the authority's advisors and outside counsel, if any, rating agency fees and any other related cost that is approved for recovery in the restructuring cost financing order.

7. "Financing entity" means the restructuring bond issuer, the authority or any servicer, trustee, collateral agent, and other person or entity acting for the benefit of owners of the restructuring bonds, the restructuring bond issuer or the authority that may own restructuring property or have rights to receive proceeds of restructuring bonds or to receive proceeds from the sale of restructuring property.

8. "LIPA" means Long Island Lighting Company, currently doing business under the name of LIPA.

9. "Ongoing financing costs" means financing costs that are not upfront financing costs. Ongoing financing costs include: (a) principal, interest and redemption premiums payable on restructuring bonds; (b) any payment required under an ancillary agreement and any amount required to replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to restructuring bonds; (c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and (d) any cost related to administering the restructuring bond issuer and servicing restructuring property or restructuring bonds, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, administrative fees and expenses, trustee fees and expenses, and legal fees and expenses, accounting fees and expenses, and rating agency fees, approved for recovery in the restructuring cost financing order. Ongoing financing costs shall include any excess of actual upfront financing costs over the estimate of upfront financing costs included in the principal amount of the restructuring bonds.

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under section four of this act.

11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years.

12. "Restructuring cost financing order" means an order by the authority, adopted in accordance with this act, which approves the imposition and collection of transition charges, and the financing of approved restructuring costs and upfront financing costs through the sale of restructuring property and the issuance of restructuring bonds, and which includes a procedure to require periodic adjustments to transition charges to ensure the collection of transition charges sufficient to

provide for the timely payment of scheduled debt service on the restructuring bonds and all other ongoing financing costs contemplated by the restructuring cost financing order.

13. "Restructuring property" means the property rights and interests created pursuant to this act, including, without limitation, the right, title, and interest: (a) in and to the transition charges established

pursuant to a restructuring cost financing order, as adjusted from time to time in accordance with the restructuring cost financing order; (b) in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the transition charges or constituting transition charges that are the subject of a restructuring cost financing order, regardless of whether such revenues, collections, claims, payments, money, or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections, claims, payments, money or proceeds; and (c) in and to all rights to obtain adjustments to the transition charges pursuant to the terms of the restructuring cost financing order. Restructuring property shall constitute a vested, presently existing property right notwithstanding the fact that the value of the property right will depend on further acts that have not yet occurred, including but not limited to, consumers remaining or becoming connected to the T&D system assets and taking electric delivery service, the imposition and billing of transition charges, or, in those instances where consumers are customers of LIPA or any successor owner of the T&D system assets, such owner performing certain services.

14. "Service area" means the geographical area within which LIPA provided electric distribution services as of the implementation date of this act.

15. "Servicer" means an entity authorized and required, by contract or otherwise, to impose, bill and collect transition charges, to prepare periodic reports regarding billings and collections of transition charges, to remit collections to the appropriate financing entity, and to provide other services contemplated by the restructuring cost financing order, which may include calculation of periodic adjustments to the transition charges or providing other services related to the restructuring property. Without limitation, LIPA or any successor owner of the T&D system assets, their agents or subcontractors, or any entity authorized to bill and collect T&D rates may be a servicer.

16. "Servicing fee" means, except to the extent otherwise specified in a restructuring cost financing order, the periodic amount paid pursuant to a servicing agreement, indenture or other such document to a servicer of restructuring property which amount shall approximate the estimated incremental cost of imposing, billing and collecting transition charges, preparing servicing reports and performing other customary servicing services required in connection with securitized bonds. A restructuring cost financing order may authorize a smaller fee payable to a successor servicer that is affiliated with a successor owner of the T&D system assets if the incremental cost of providing servicing services is less than LIPA's incremental costs. A restructuring cost financing order may authorize a larger fee payable to a successor servicer that is not affiliated with the owner of the T&D system assets or is not performing similar services with respect to the base rates of the owner of the T&D system assets if such larger fee is reasonably necessary to employ a reliable successor servicer.

17. "Successor regulator" means a regulatory department, commission or other instrumentality or subdivision of the state with jurisdiction to

regulate the T&D rates of LIPA or its successor as owner of the T&D system assets.

18. "Third-party biller" means any person or entity authorized, required or entitled to bill or collect transition charges or T&D rates other than the authority, LIPA or a successor owner of the T&D system assets, or a servicer.

19. "T&D rates" means rates and charges for electric transmission and distribution services in the service area. "T&D rates" shall not include charges for the generation or resale of electricity or any charges imposed to fund public purpose programs.

20. "T&D system assets" means the physically integrated system of electric transmission and distribution facilities (and other general property and equipment used in connection therewith) owned by LIPA as of the effective date of this act or thereafter acquired for use by LIPA or its successors in providing retail electric utility service to consumers in the service area.

21. "Transition charges" means those rates and charges relating to the T&D system assets that are separate and apart from base rates of LIPA or any successor owner of the T&D system assets and that are authorized in a restructuring cost financing order to recover from consumers the principal, interest and premium payable on restructuring bonds and the other ongoing financing costs associated with the restructuring bonds. As provided in paragraph (c) of subdivision 5 of section five of this act, transition charges shall be imposed on all consumers in the service area and collected by LIPA or any successor owner of the T&D system assets, their agents, subcontractors, assignees, collection agents or any other entity designated under the restructuring cost financing order.

22. "Upfront financing costs" means the fees and expenses to issue restructuring bonds, including, without limitation, expenses associated with the efforts to prepare or obtain approval of a restructuring cost financing order, as well as the fees and expenses associated with the structuring, marketing, and issuance of restructuring bonds, including, without limitation, counsel fees, structural advisory fees, underwriting fees and original issue discount, rating agency and trustee fees (including fees of trustee's counsel), accounting and auditing fees, printing and marketing expenses, stock exchange listing fees and compliance fees, filing fees, any applicable taxes, payments in lieu of taxes, the amount required to fund a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds, and fees and expenses of the authority's advisors and outside counsel, if any. Upfront financing costs include reimbursement to any person of amounts advanced for payment of such costs. Upfront financing costs do not include scheduled debt service or other ongoing financing costs, to the extent such ongoing financing costs are payable from transition charge revenues. If any upfront financing costs cannot be reasonably determined before the principal amount of restructuring bonds is fixed, such financing costs shall be estimated and the aggregate of such estimates shall be included as an upfront financing cost for purposes of determining the principal amount of restructuring bonds to be issued. If the actual upfront financing costs are greater than the estimated upfront financing costs, the difference shall be deemed to be an ongoing financing cost; if the actual upfront financing costs are less than the estimated upfront financing costs, the proceeds corresponding to such difference shall be used to pay ongoing financing costs.

§ 3. Procedure; judicial review. 1. Standard. The authority may prepare a restructuring cost financing order for the purpose of issuing restructuring bonds to refinance outstanding debt of the authority based on a finding that such bond issuance is expected to result in savings to consumers of electric transmission and distribution services in the service area on a net present value basis.

2. Public hearings. Notwithstanding any other provision of law to the

contrary, at any time after the effective date of this act, after making such finding, the authority shall schedule and hold one or more expedited public statement hearings on the proposed restructuring cost financing order. After the conclusion of such hearings and its review of any comments received, the authority shall finalize the restructuring cost financing order for submission to the board of trustees of the authority and to the public authorities control board ("PACB"). The PACB shall have the power and it shall be its duty to, upon receiving an application for approval of a restructuring cost financing order, within thirty days after receipt of such order, either approve, absent any conditions of approval, or disapprove such order based solely on the assumptions and conditions set forth in the restructuring cost financing order and whether such order complies with the standards set forth in this act. If the public authorities control board fails to approve or disapprove such restructuring cost financing order within such thirty day period, the PACB shall be deemed to have approved the restructuring cost financing order. If the board of trustees of the authority approves such restructuring cost financing order and the PACB approves or is deemed to have approved such restructuring cost financing order, the restructuring cost financing order shall become a final rate order by the authority.

3. Appeals. Because delay in the final determination of the petition will delay the issuance of restructuring bonds, thereby diminishing savings to consumers that might be achieved if the restructuring bonds were issued promptly after the issuance of the restructuring cost financing order, notwithstanding any other law to the contrary, any action, suit or proceeding to which the authority or the restructuring bond issuer may be a party, in which any question arises as to the validity of this act or any restructuring cost financing order, shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Such preference shall also be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this act or any restructuring cost financing order in which such counsel may be allowed to intervene. Notwithstanding any other provision of law to the contrary, the validity of this act may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days of the effective date of this act, and the validity of any restructuring cost financing order may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days after such restructuring cost financing order becomes a final rate order by the authority; provided, however, that any such action, suit or proceeding and all supporting papers shall be filed directly to the Supreme Court, Appellate Division, Second Judicial Department.

4. Expiration of appeals. The authority shall provide written notification to the restructuring bond issuer upon the authority's determination that any and all actions, suits and proceedings challenging this

act and the final restructuring cost financing order have been denied or dismissed or the timing associated with the filing of such actions, suits and proceedings has lapsed or expired, and any related appeals have been exhausted or the timing related to such appeals has lapsed or expired.

5. Agreement to sell restructuring bonds. Within the time specified in

the restructuring cost financing order, after receiving notice from the authority that the time for petitions and appeals has lapsed or expired, the restructuring bond issuer shall enter into an agreement with one or more underwriters or purchasers satisfactory to the authority to sell the restructuring bonds in compliance with the restructuring cost financing order. No later than the third business day after the pricing of the restructuring bonds in accordance with such agreement, the initial servicer shall determine the initial transition charges and the expected savings to consumers in accordance with the restructuring cost financing order and shall file an issuance advice letter with the authority and the restructuring bond issuer setting forth the principal amount of restructuring bonds to be issued, the pricing, the net proceeds, the initial transition charges, the expected savings to consumers and any other information required by the restructuring cost financing order. No later than the end of the third business day after the filing of such issuance advice letter, the authority shall confirm in a notice to the restructuring bond issuer that such pricing complies with the restructuring cost financing order.

6. Issuance of restructuring bonds. Within ninety days after receiving notice of confirmation from the authority, the restructuring bond issuer shall issue the restructuring bonds, in one or more series or tranches and at one or more times, pursuant to the agreement to sell the restructuring bonds. The restructuring bond issuer shall purchase the restructuring property from the authority for a purchase price equal to the net proceeds from the sale of the restructuring bonds less any amounts of such proceeds required to fund or pay upfront financing costs.

7. Irrevocability. Upon the issuance of the restructuring bonds, the transition charges, including any adjustments thereof as provided in the restructuring cost financing order, shall be deemed established by the authority as irrevocable, final and effective without further action by the authority, or any other entity. The state, including the authority or any successor regulator, thereafter may not in any way take or permit any action to reduce, impair, postpone or terminate the transition charges approved in the restructuring cost financing order, as the same may be adjusted from time to time pursuant to subdivision 3 of section five of this act, or impair the restructuring property or the collection or recovery of transition charge revenues, including, but not limited to, either directly or indirectly by taking transition charges into account when setting other rates for any owner of the T&D system assets; nor shall the amount of revenues arising with respect to restructuring property be subject in any way to reduction, impairment, postponement, or termination.

8. Application of proceeds. The restructuring bond issuer shall cause the proceeds from its issuance of the restructuring bonds to be placed in one or more separate accounts and used only to pay or fund upfront financing costs and to purchase the restructuring property from the authority. The authority shall cause the proceeds from its sale of restructuring property to be placed in one or more separate accounts and used only to pay approved restructuring costs, and if funds remain in those accounts after the payment of all approved restructuring costs, to

make a refund or credit to consumers on the same basis that transition charges are then being imposed, to the extent such a refund or credit is practical.

§ 4. Creation of restructuring bond issuer. 1. Creation of restructuring bond issuer. For the purpose of effectuating the purposes

declared in section one of this act, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. The restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered.

2. Activities limited to issuing restructuring bonds and related activities.

(a) The restructuring bond issuer is hereby authorized to:

(i) issue the restructuring bonds contemplated by a restructuring cost financing order, and use the proceeds thereof to purchase or acquire, and to own, hold and use restructuring property or to pay or fund upfront financing costs provided, however, that the restructuring bond issuer shall only issue and sell restructuring bonds once;

(ii) contract for servicing of restructuring property and restructuring bonds and for administrative services; and

(iii) pledge the restructuring property to secure the restructuring bonds and the payment of ongoing financing costs, all pursuant to section seven of this act.

(b) So long as any restructuring bonds remain outstanding, the restructuring bond issuer shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity. Additionally, the restructuring bond issuer shall not have the power or authority to incur, guarantee or otherwise become obligated to pay any debt or other obligations other than the restructuring bonds and financing costs unless otherwise permitted by the restructuring cost financing order. The restructuring bond issuer shall keep its assets and liabilities separate and distinct from those of any other entity.

(c) The restructuring bond issuer shall have no additional authority to engage in other business activities; provided, however, that in connection with the powers specified in paragraph (a) of subdivision 2 of this section, as a financing entity, the restructuring bond issuer shall have the power to:

(i) sue and be sued;

(ii) have a seal and alter the same at pleasure;

(iii) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property;

(iv) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act and to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement, including, without limitation, make and execute contracts with the authority, LIPA or any successor owner of the T&D system assets, any servicers, any financing entity or any other public or private entities to service restructuring property owned by restructuring bond issuer, to service restructuring bonds issued by restructuring bond issuer, and to provide services in

administering the restructuring bond issuer, and to pay compensation for such services;

(v) appoint officers, agents and employees, prescribe their duties and qualifications, fix their compensation and engage the services of

private consultants, accountants, counsel and others on a contract basis for rendering professional and technical assistance and advice;

(vi) pay its operating expenses, scheduled debt service on the restructuring bonds and other ongoing financing costs;

(vii) issue restructuring bonds and provide for the rights of the holders thereof;

(viii) procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers as it deems desirable;

(ix) invest any funds or other moneys under its custody and control in investment securities or under any ancillary agreement;

(x) establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by agreements made in connection with the restructuring bonds, or any agreement between itself and third parties;

(xi) as security for the payment of the principal of and interest on any restructuring bonds issued by it pursuant to this act, and any agreement made in connection therewith, pledge all or any part of its revenues or assets, including, without limitation, restructuring property, unspent proceeds of its restructuring bonds, transition charge revenues, and earnings from the investment and reinvestment of unspent proceeds of its restructuring bonds and transition charge revenues; and

(xii) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

3. No authority to file for bankruptcy protection. The restructuring bond issuer shall not be authorized to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. No governmental officer or organization is empowered to authorize, whether by executive order or otherwise, restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. Until at least one year and one day after all restructuring bonds issued by restructuring bond issuer have ceased to be outstanding and all unpaid financing costs have been paid, the state hereby pledges, contracts and agrees with owners of restructuring bonds issued by restructuring bond issuer that the state will not limit or alter the denial of authority to the restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code.

4. Governance. The restructuring bond issuer shall be governed by a board consisting of three trustees appointed by the governor. The trustees shall not be trustees, directors, officers, or employees of the authority, LIPA or any successor owner of the T&D system assets.

(a) One of the trustees first appointed shall serve for a term ending four years from January first next succeeding his appointment; one of such trustees shall serve for a term ending five years from such date; and one of such trustees shall serve for a term ending six years from such date. Their successors shall serve for terms of six years each. Trustees shall continue in office until their successors have been appointed and qualified and the provisions of section 39 of the public officers law shall apply. In the event of a vacancy occurring in the

office of a trustee by death, removal, resignation or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

(b) Trustees shall serve without salary or other compensation, but each trustee shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(c) A majority of the trustees shall constitute a quorum for the transaction of any business or the exercise of any power or function of restructuring bond issuer. Any one or more trustees may participate in a meeting of the board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The board may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as the board may deem proper.

(d) Such trustees may engage in private employment, or in a profession or business. Restructuring bond issuer, its trustees, officers and employees shall be subject to the provisions of sections 73 and 74 of the public officers law.

(e) Notwithstanding any inconsistent provision of law to the contrary, general, special or local, no officer of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as trustee of restructuring bond issuer.

(f) The governor may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days notice. If any trustee shall be so removed, the governor shall file in the office of the department of state a complete statement of the charges made against such trustee and his or her findings thereon, together with a complete record of the proceedings.

(g) Each trustee shall have a fiduciary duty to act in the best interests of the restructuring bond issuer, including its creditors, the owners of the restructuring bonds, and such other duties as may be specified in the organizational documents or other agreements of the restructuring bond issuer.

(h) The restructuring bond issuer and its corporate existence shall continue until one year and one day after all restructuring bonds and ongoing financing costs and other indebtedness of restructuring bond issuer have been actually paid and all its other liabilities and obligations have been paid, met or otherwise discharged. Upon termination of the existence of restructuring bond issuer, all of its rights and property shall pass to and be vested in the state.

§ 5. Restructuring cost financing orders. 1. Content of restructuring cost financing orders. The restructuring cost financing order shall include the following: (i) a description of the approved restructuring costs; (ii) the amount of approved restructuring costs that the authority proposes to pay through the sale of the restructuring property and the issuance of the restructuring bonds; (iii) designation of the authority as the entity in which initial ownership of restructuring property will vest; (iv) an estimate of the date on which restructuring bonds will be issued and the expected scheduled term to maturity of the restructuring bonds; (v) a description of the estimated debt service on the restructuring bonds and other ongoing financing costs that may be recovered through transition charges; as part of this description, the

restructuring cost financing order may include qualitative or quantitative limitations on financing costs approved to be recovered provided

that no such limitation on financing costs shall impair the ability of the restructuring bond issuer to pay and service the restructuring bonds in accordance with their terms; (vi) a proposed methodology for allocating transition charges on an equal percentage basis among customer service classifications and among volumetric (kWh) and demand (kW) charges within those customer service classifications, along with an associated bill impact analysis of the proposed methodology; (vii) a description of the proposed adjustment mechanism to reconcile actual collections with forecasted collection on at least an annual basis and a finding that the adjustment mechanism is just and reasonable; (viii) a description of the benefits to consumers in the service area that are expected to result from the sale of the restructuring property and the issuance of restructuring bonds as opposed to traditional alternative financing mechanisms; (ix) specifying the entity that will contract to act as servicer with respect to the restructuring property and the restructuring bonds on terms and conditions mutually acceptable to such servicer and the restructuring bond issuer; (x) specifying the entity or entities that will contract to provide administrative or other services to the restructuring bond issuer; (xi) specifying when the restructuring property will be created and vest and addressing such other matters as may be necessary or desirable for the marketing or servicing of the restructuring bonds or the servicing of the restructuring property; (xii) authorizing the imposition, billing and collection of transition charges to pay debt service on the restructuring bonds and other ongoing financing costs; (xiii) a description of the restructuring property that will be created and that may be used to pay and secure the payment of the restructuring bonds approved to be issued in the restructuring cost financing order; (xiv) a requirement that the amounts in the debt service reserve accounts or other accounts funded with the proceeds of restructuring bonds or transition charges be fully used, to the extent practical, to make the final payments of principal and interest on the restructuring bonds and other ongoing financing costs or to make refunds to consumers on the same basis as such consumers would have then been obligated to pay transition costs; and (xv) the finding required by subdivision 1 of section 3 of this act.

2. Periodic reports. A restructuring cost financing order shall require the restructuring bond issuer or the servicer to file at least annually with the authority and the appropriate financing entity a periodic report showing the billing and collection of transition charges, the application of transition charge revenues to debt service on the restructuring bonds and other ongoing financing costs, and the balances in any debt service reserve accounts or other accounts required by the restructuring cost financing order.

3. Adjustment mechanism.

(a) Each restructuring cost financing order shall include a mathematical formula for making periodic adjustments to the transition charges. The mathematical formula shall apply the following principles:

(i) The transition charges will be adjusted at least annually to ensure that the collections of transition charges are adequate to pay principal and interest on the associated restructuring bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve accounts to the required levels and to pay when due all other expected ongoing financing costs.

(ii) The adjustments of transition charges will take into account historical and reasonably foreseeable differences between amounts billed

and amounts collected due to applicable taxes, consumer defaults and delays, billing lags, write-offs and other factors.

(iii) The adjustments of transition charges will take into account historical and reasonably foreseeable variations in billings due to variations in electricity consumption associated with the seasons, storms and other weather conditions, outages, gain or loss of consumers, efficiencies, electric vehicles, economic conditions or other factors.

(iv) The adjustments of transition charges will take into account any over-collection or under-collection of transition charges so that, to the extent practical, the outstanding balance of restructuring bonds is equal to the scheduled balance on the expected amortization schedule, the amounts in the debt service reserve accounts are equal to the required reserve level, and all ongoing financing costs are paid when due.

(v) The adjustments of transition charges will be applied ratably to the transition charges for each customer service classification.

(b) Once restructuring bonds have been issued, the adjustment mechanism specified in the restructuring cost financing order shall be applied to correct for any over-collection or under-collection of transition charges and to provide for timely payment of scheduled principal of and interest on the restructuring bonds and the payment and recovery of other ongoing financing costs in accordance with the restructuring cost financing order. Application of the adjustment mechanism shall occur at least annually or more frequently as provided in the restructuring cost financing order. A notice of such periodic adjustment of transition charges shall be filed with the authority by or on behalf of the owner of restructuring property and a copy shall be provided to the owner of the T&D system assets at least sixty days before the adjustment is to take effect, provided that the restructuring bond issuer may request an earlier effective date.

(c) Each adjustment to the transition charge, in amounts as calculated by or on behalf of the owner of restructuring property, shall automatically become effective sixty days following the date on which the notice of periodic adjustment is filed with the authority unless the authority approves an earlier effective date requested by the restructuring bond issuer.

(d) Notwithstanding any other provision of law to the contrary, the authority shall allow interested parties thirty days from the date of filing of the notice for adjustment within which to make comments. Such comments shall be limited to the mathematical accuracy of the calculations of the amount of the adjustments. If the authority determines that the calculation of the transition charge adjustment in the notice was mathematically inaccurate, the transition charge adjustment shall be changed as soon as it is reasonably practical to do so, but estimated overcollections or undercollections resulting from the mathematical error shall be taken into account in the next succeeding periodic adjustment.

(e) No adjustment pursuant to this section shall in any way affect the irrevocability of the restructuring cost financing order as specified in subdivision 4 of section five of this act. No adjustment pursuant to this section shall require any approvals or action under any other law or shall be deemed to be the establishment of a new charge, fee or rate under any law.

4. Irrevocability of restructuring cost financing orders.

(a) A restructuring cost financing order shall be an irrevocable final

rate order when the time for any actions, suits, proceedings and appeals challenging such final restructuring cost financing order has lapsed or expired as provided in subdivision 3 of section three of this act.

(b) A restructuring cost financing order may be amended on or after the date of issuance of restructuring bonds approved thereunder only: (i) at the request of the authority; (ii) in accordance with any restrictions and limitations on amendment set forth in the restructuring cost financing order; (iii) subject to the limitations set forth in subdivision 7 of section three of this act; and (iv) upon approval by the PACB within thirty days of receipt of such amendment; provided, however, that if no approval or disapproval is made within such time, the amendment shall be deemed approved.

(c) This act, and any restructuring cost financing order made pursuant to this act, shall not be interpreted to alter or limit the rights vested in the authority to establish sufficient T&D rates to pay and perform all of its obligations and contracts with the authority's bondholders and others when due.

5. Effect of restructuring cost financing order.

(a) A restructuring cost financing order shall remain in effect and unabated until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all ongoing financing and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) A restructuring cost financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the authority, the restructuring bond issuer, LIPA or any successor owner of the T&D system assets, or any affiliate of the aforementioned, or the commencement of any judicial or nonjudicial proceeding therefor.

(c) For so long as restructuring bonds issued pursuant to a restructuring cost financing order are outstanding, and the related approved restructuring costs have not been paid in full, the transition charges authorized in the restructuring cost financing order shall be non-bypassable and shall apply to all consumers connected to the T&D system assets and taking electric delivery service located within the service area, whether or not the consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the T&D system assets and whether or not the T&D system assets continue to be owned by LIPA.

§ 6. Restructuring bonds. 1. No recourse. Restructuring bonds shall be without recourse to the credit or any assets of the authority, LIPA and the restructuring bond issuer, other than the restructuring property and other assets and revenues of restructuring bond issuer as specified in the pertinent restructuring cost financing order.

2. Exemption from taxation.

(a) It is hereby found and declared that the activities of the restructuring bond issuer are primarily for the benefit of the people of the state of New York, for the improvement of their welfare and prosperity, and is a public purpose, and the restructuring bond issuer shall be regarded as performing an essential governmental function in carrying out the provisions of this act.

(b) The restructuring bond issuer shall not be required to pay taxes or assessments upon any of the property acquired or controlled by it or upon its activities in the use thereof or upon income derived therefrom.

(c) Restructuring bonds, their transfer and the income therefrom shall, at all times, be free from taxation by the state or any munici-

pality, except for estate and gift taxes.

3. Restructuring bonds not debt of the state. Restructuring bonds issued pursuant to a restructuring cost financing order and the provisions of this act shall not constitute a debt, general obligation or a pledge of the faith and credit or taxing power of the state or of any county, municipality or any other political subdivision, agency or instrumentality of the state. Holders of restructuring bonds shall not be taxed by the legislature or the taxing authority of any county, municipality or any other political subdivision, agency or instrumentality of this state for the payment of the principal thereof or interest thereon. The issuance of restructuring bonds does not obligate the state or any county, municipality or any other political subdivision, agency or instrumentality of the state to levy any tax or make any appropriation for payment of the principal of or interest on the restructuring bonds. All restructuring bonds must contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of New York is pledged to the payment of the principal of, or interest on, this bond."

4. Restructuring bonds as legal investments. Any restructuring bonds issued by the restructuring bond issuer are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all trusts, estates and guardianships and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. The restructuring bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 7. Restructuring property. 1. (a) Restructuring property that is created pursuant to a restructuring cost financing order shall constitute an existing, present property right, notwithstanding the fact that the imposition and collection of transition charges will depend on further acts that have not yet occurred, including but not limited to: (i) LIPA or any successor owner of the T&D system assets delivering electric energy or related services, (ii) a servicer performing servicing functions relating to the collection of transition charges, or (iii) the level of future consumption of electric energy. Restructuring property shall exist whether or not transition charges have been imposed, billed, accrued or collected and notwithstanding the fact that the value or amount of the restructuring property is dependent on the future provision of service to customers by LIPA or any successor owner of the T&D system assets.

(b) All restructuring property created pursuant to a restructuring cost financing order shall continue to exist until the restructuring bonds issued pursuant to such restructuring cost financing order are paid in full and all ongoing financing costs relating to the restructuring bonds have been paid in full.

(c) The restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of

restructuring property may be pledged to secure the payment of restructuring bonds, amounts payable to financing parties, amounts payable to holders of restructuring bonds, amounts payable under any ancillary agreement and other ongoing financing costs. So long as the restructuring property remains pledged to secure the restructuring bonds, revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs. After the occurrence of an event of default with respect to the restructuring bonds, all or any portion of restructuring property may be transferred, sold, conveyed or assigned to any person or entity. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of restructuring property by the authority, the restructuring bond issuer, or other financing entity, to the extent previously approved in a restructuring cost financing order, does not require the prior consent and approval of any other person or entity under the public service law or any other law.

(d) If the owner of the T&D system assets, servicer, third-party biller, or any other person or entity authorized to collect transition charges, defaults on any required remittance of transition charge revenues, any court in the state, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the transition charge revenues for the benefit of the owners or pledgees of restructuring property. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to a servicer, authority, LIPA or any successor owner of the T&D system assets or any affiliate thereof or of any other person or entity.

(e) Restructuring property, transition charges, transition charge revenues, and the interests of an assignee, bondholder, financing party or any other person in restructuring property or in transition charge revenues, are not subject to setoff, counterclaim, surcharge or defense by a servicer, any consumer, the authority, LIPA or any successor owner of the T&D system assets or any other person or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of the authority, LIPA or any successor owner of the T&D system assets, any affiliate thereof or any other entity or otherwise. To the extent that any consumer makes a partial payment of a bill containing both transition charges and any other charges, such payment shall be allocated pro rata between the transition charges and the other charges unless the consumer specifies that a greater proportion of such payment is to be allocated to the transition charges, except that the other charges shall be reduced by the amount of any claims of setoff, counterclaim, surcharge or defense for purposes of such allocation.

(f) Any successor owner of the T&D system assets and any successor servicer shall be bound by the requirements of this act and shall perform and satisfy all obligations of a servicer in the same manner and to the same extent under a restructuring cost financing order as did LIPA and the initial servicer, including, without limitation, the obligation to impose, bill and collect the transition charges and to pay such collections to the person entitled to receive the transition charge revenues.

2. Security interests. Any pledge of restructuring property or proceeds thereof, including any moneys, revenues or property or of a revenue producing contract or contracts constituting part of the

restructuring property, made by the owner of restructuring property,

shall be perfected, valid and binding from the time when the pledge is made. The proceeds, moneys, revenues or proceeds so pledged and thereafter received by the owner of restructuring property shall immediately be subject to the lien of such pledge, and such lien shall be perfected, without any physical delivery thereof or further act. The lien of any such pledge shall be perfected, valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the owner of restructuring property irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a pledge or security agreement and any financing statement is sufficient if and only if the description refers to this Act and the restructuring cost financing order creating such restructuring property. No instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article 9 of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that the secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed. A pledge of restructuring property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that restructuring property or proceeds thereof unless the holder of any such lien has agreed in writing otherwise. Any pledgee of restructuring property shall have a perfected security interest in the amount of all restructuring property revenues or other proceeds that are deposited in any deposit account or other account of the servicer or other entity in which restructuring property revenues or other proceeds have been commingled with other funds. Any other security interest that may apply to restructuring revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a financing party. No application of the adjustment mechanism as described in this act shall affect the validity, perfection, or priority of a pledge of, security interest in or the sale or transfer of restructuring property.

3. Sales of restructuring property.

(a) A transfer of all or any portion of restructuring property, which the parties in the governing documentation have expressly stated to be a sale or other absolute transfer, in a transaction approved in a restructuring cost financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest (as in a true sale), and not as a pledge or other financing, of the restructuring property, other than for federal, state and local income and franchise tax purposes.

(b) Any transfer of an interest in restructuring property shall be perfected, vested, valid and binding from the time when the transfer is made. Such transfer shall be perfected, vested, valid and binding as against the transferor, all parties having claims of any kind in tort, contract or otherwise against the transferor, and all other transferees of the transferor, irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens

obtained by such claimants or transferees. The description of the restructuring property in a sale or transfer agreement and any financing statement is sufficient if and only if the description refers to this act and the restructuring cost financing order creating such restructuring property. No instrument by which a transfer is created pursuant to this section need be recorded in order to perfect such transfer. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article nine of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that such secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed.

(c) The characterization of the sale, assignment or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser, shall not adversely be affected or impaired by, among other things, the occurrence of any of the following factors: (i) commingling of revenues or other proceeds from transition charges with other amounts; (ii) the retention by the seller of: (A) a partial or residual interest, including an equity interest, in the restructuring property, whether direct or indirect, or whether subordinate or otherwise; or (B) the right to recover costs associated with taxes, payments in lieu of taxes, franchise fees or license fees imposed on the collection of transition charges; (iii) any recourse that the purchaser may have against the seller; (iv) any indemnification rights, obligations or repurchase rights made or provided by the seller; (v) the obligation of the seller to collect transition charges on behalf of an assignee, including but not limited to, any retention by the seller to bare legal title for the purpose of collecting transition charges; (vi) the treatment of the sale, assignment or transfer for tax, financial reporting or other purposes; (vii) any subsequent order of the authority amending a restructuring cost financing order pursuant to paragraph (b) of subdivision 4 of section five of this act; or (viii) any application of the adjustment mechanism as provided in subdivision 3 of section five of this act.

(d) An assignee or financing party shall not be considered to be a public utility or person providing electric service solely by virtue of the transactions described in this act.

§ 8. Rights and duties while restructuring bonds are outstanding. 1. Responsibilities of the authority. (a) For the purpose of investigating compliance with the provisions of this act and the applicable restructuring cost financing order, the authority shall have the right, jurisdiction, power and authority to examine the books and records of LIPA or any successor owner of the T&D system assets, the restructuring bond issuer, any other financing entity, any servicer, any third-party biller and any other person or entity that owns restructuring property or has the right to impose, bill or collect transition charges until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all financing costs relating to such restructuring bonds have been paid in full.

(b) Neither the authority nor any successor regulator may, in exercising its powers and carrying out its duties regarding regulation and ratemaking, consider restructuring bonds issued pursuant to the restructuring cost financing order to be the debt of any owner of the T&D

system assets, consider transition charges paid under the restructuring cost financing order to be revenue of any owner of the T&D system assets, or consider the approved restructuring costs or ongoing financing costs specified in the restructuring cost financing order to be costs of any owner of the T&D system assets or any affiliate, nor may the authority or any successor regulator determine that any action taken by any owner of the T&D system assets that is consistent with the restructuring cost financing order is unjust or unreasonable from a regulatory or ratemaking perspective; provided that, subject to the limitations set forth in subdivision 4 of section five of this act and the state pledge in section nine of this act, nothing in this subdivision shall (i) affect the authority to apply the adjustment mechanism as provided in subdivision 3 of section five of this act; (ii) prevent or preclude the authority from investigating the compliance of any owner of the T&D system assets and of any financing entity with the terms and conditions of a restructuring cost financing order and requiring compliance therewith; or (iii) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any owner of the T&D system assets for failure to comply with the terms and conditions of a restructuring cost financing order or the requirements of this act. When setting other rates for any owner of the T&D system assets, nothing in this act shall prevent the authority or any successor regulator from taking into account the collection by such owner of servicing fees in excess of incremental costs of providing servicing services, or the collection by such owner of administration fees in excess of incremental costs of providing administration services; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following: (i) treating restructuring bonds as debt for federal income tax purposes; or (ii) treating any transfer of the restructuring property to the restructuring bond issuer or to any other financing entity as a true sale for bankruptcy purposes.

2. Duties of financing entities and any owner of T&D system assets.

(a) Any failure of any financing entity to apply the proceeds of restructuring bonds, or proceeds from the sale of restructuring property, in a reasonable, prudent and appropriate manner or otherwise comply with any provision of this act shall not invalidate, impair or affect any restructuring cost financing order, restructuring property, transition charge, or restructuring bonds.

(b) Any owner of T&D system assets, any servicer, any third-party biller and any other entity that bills or collects T&D rates shall simultaneously impose, bill and collect any transition charges applicable to consumers in the service area, including all consumers connected to the T&D system assets and taking electric delivery service located within the service area, shall allocate partial payments by consumers as provided in this act, shall terminate service to non-paying consumers on the same basis as termination of service is permitted for non-payment of T&D rates, shall exercise all enforcement rights of the owner or pledgee of the restructuring property for the benefit of such owner or pledgee, and shall remit any transition charge revenue to the owner or pledgee of the restructuring property.

§ 9. State pledge. (a) The state pledges to and agrees with the holders of restructuring bonds, any assignee and all financing entities that the state will not in any way take or permit any action that limits, alters or impairs the value of restructuring property or, except as

required by the adjustment mechanism described in the restructuring cost financing order, reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) Any person who issues restructuring bonds is permitted to include the pledge specified in subdivision (a) of this section in the restructuring bonds, ancillary agreements and documentation related to the issuance and marketing of the restructuring bonds.

§ 10. Choice of law. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in any restructuring property, transition charge or restructuring cost financing order, shall be the laws of the state of New York.

§ 11. Conflicts. In the event of conflict between this act and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any pledge of, security interest in or transfer of restructuring property, this act shall govern to the extent of the conflict. In the event of conflict between this act and the public service law, the Long Island power authority act or any other law, this act shall govern to the extent of the conflict. Notwithstanding any provisions of law to the contrary, no approvals, notices or authorizations other than those specified in this act shall be required with respect to any restructuring cost financing order, and the transactions and contracts authorized in or contemplated by this act or any restructuring cost financing order, including but not limited to the incurrence and payment of any financing costs, the incurrence or payment of any approved restructuring costs, the issuance of restructuring bonds, the sale or other transfer of restructuring property, and any contracts and expenses incurred to facilitate the preparation of any restructuring cost financing order.

§ 12. Effect of invalidity on actions. Effective on the date that restructuring bonds are first issued under this act, if any provision of this act is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect any action allowed under this act that is taken by the authority, LIPA, the restructuring bond issuer, any owner of T&D system assets, an assignee, a collection agent, a financing party, a holder of restructuring bonds or a party to an ancillary agreement and any such action shall remain in full force and effect.

§ 13. Effectiveness of the act. The authority may not adopt its first restructuring cost financing order after the five year period after the effective date of this act.

§ 14. Severability. If any section, subdivision, paragraph or subparagraph of this act or the application thereof to any person, circumstance or transaction is held by a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, subdivision, paragraph or subparagraph of this act or its application or validity to any person, circumstance or transaction, including, without limitation, the irrevocability of a restructuring cost financing order

ing bonds, the imposition of transition charges, the transfer or assignment of restructuring property or the collection and recovery of revenues from transition charges. To these ends, the legislature hereby declares that the provisions of this act are intended to be severable and that the legislature would have enacted this act even if any section, subdivision, paragraph or subparagraph of this act held to be unconstitutional or invalid had not been included in this act.

§ 15. Standing. (a) The owner of restructuring property, or the trustee representing holders of restructuring bonds, shall be expressly permitted hereby to bring actions against any owner of the T&D system assets, any third-party biller, or any other entity authorized to bill or collect T&D rates, any consumers in the service area or any other person or entity for failure to impose, bill, pay or collect any transition charges constituting part of the restructuring property then held pledged as security for such restructuring bonds or for enforcement of any other provision of this act or the applicable restructuring cost financing order.

(b) Except as provided in section three of this act, any court and the authority shall have jurisdiction over any actions for failure to impose, bill, pay or collect any transition charges or for enforcement of other provision of this act or any restructuring cost financing order.

§ 16. Third-party billing. If and to the extent that third parties are allowed to bill and/or collect any transition charges, the authority, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers, which generally would include (i) operational standards and minimum credit requirements for any such third-party biller, or require a cash deposit, letter of credit or other credit mitigant in lieu thereof, to minimize the likelihood that defaults by a third-party biller would result in an increase in transition charges thereafter billed to consumers, (ii) a finding that, regardless of who is responsible for billing, consumers shall continue to be responsible for transition charges, (iii) if a third party meters and bills for the transition charges, that the owner of the T&D system assets and any servicer must have access to information on billing and usage by consumers to provide for proper reporting to the restructuring bond issuer and to perform its obligations as servicer, (iv) in the case of a default by a third-party biller, billing responsibilities must be promptly transferred to another party to minimize potential losses, and (v) the failure of consumers to pay transition charges shall allow service termination by the owner of the T&D system assets on behalf of the restructuring bond issuer of the consumers failing to pay transition charges in accordance with service termination rules and orders applicable to T&D rates. Any costs associated with such third-party billing and/or collection shall be included as part of the recoverable ongoing financing costs or other rates or charges, as appropriate. Further, the authority and any successor regulator shall not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the then current ratings on any tranche or series of the restructuring bonds by any nationally recognized statistical rating organization designated by the restructuring bond issuer.

§ 17. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-

sion, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not take

affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through B of this act shall be as specifically set forth in the last section of such Parts.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

DEAN G. SKELOS
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

Overview of Long Island Power Authority

Long Island Power Authority (LIPA) is a not-for-profit public utility and the owner of transmission and distribution networks in Long Island, New York. It is established by statute and the state governor has power to appoint board members. LIPA has entered into a management contracts with the Public Service Enterprise Group (PSEG), a publicly traded utility company in New Jersey, and PSEG's subsidiary now manages the billing and day-to-day operations of the distribution network.

Summary of LIPA Reform Act

Section 1(8) of Part B of the Long Island Power Authority Reform Act, 2013 (the LIPA Reform Act) provides the legislative purpose of the act, which is "to refinance outstanding debt of LIPA, a significant portion of which relates to the cost of constructing and financing the now abandoned Shoreham nuclear power plant". The Act authorizes the creation of a restructuring bond issuer for the limited purpose of "issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt". This section also makes it clear that it is the intention of the legislature to provide a statutory pledge (found in s. 9 of the LIPA Reform Act) that until the restructuring bonds are paid in full, "the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds".

The definitions in section 2 of the LIPA Reform Act provide some clarity to the mechanisms for the securitization regime. Restructuring bonds are issued by the "restructuring bond issuer" (which is established under section 4 of the LIPA Reform Act and known as the "Utility Debt Securitization Authority", or UDSA) and secured by the "restructuring property", which is essentially the property interest in a future revenue stream. In section 2(13), "restructuring property" is defined to include the property rights and interests in the "transition charges". As defined in s. 2(21), transition charges are established and may be amended from time to time in accordance with a restructuring cost financing order, and they are a component of the delivery line on the utility bills.

Section 3 provides the procedures for issuing restructuring bonds by the restructuring bond issuer, and includes appeal procedures and public hearing provisions. Section 4 provides the authority to establish the UDSA as a public corporation, the scope of its activities and its governance structure. It should be noted that section 4(2)(a)(i) provides that "the restructuring bond issuer shall only issue and sell restructuring bonds once" (please also see summary of 2015 amendments below). The UDSA also issues the restructuring cost financing orders in accordance with section 5.

Section 6 sets out the features of the restructuring bonds. Section 6(1) limits bond purchaser's remedies to the restructuring property, i.e. the property interest in a future revenue stream. The restructuring bonds are tax-exempt (section 6(2)), and are not debt of the state (section 6(3)).

Section 7 governs the restructuring property and creates a property interest and security interest in the future revenue stream arising from "transition charges". Section 7(1)(c) provides that "[t]he restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of restructuring property may be pledged to secure the payment of restructuring bonds", and "revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs."

Section 8(2) provides that any owner of the transmission and distribution network or any other entity that collects the delivery charges on behalf of the owner shall impose the transition charges on the consumers, and shall remit such revenues to the owner or pledgee of the restructuring property.

Section 9 provides the pledge from the state not to take actions to impair the value of the restructuring property. Sections 10 to 17 include procedural provisions such as conflicts, third-party billing and standing.

Summary of 2015 Amendments to LIPA Reform Act

The LIPA Reform Act was further amended in 2015 to permit the issuance of additional restructuring bonds by UDSA or a separate "Utility Debt Securitization Authority No. 2" up to an aggregate maximum amount (including the previously-issued Restructuring Bonds) of $4.5 billion. Any additional issuance of restructuring bonds, whether issued by UDSA or by a new issuer, will be separately secured by distinct collateral pursuant to a new financing order and transaction documents.

Background Information on Duke Energy and Duke Energy Florida

Duke Energy is a publicly-traded utility company with electricity generation and transmission networks in the Carolinas, Florida, Ohio, Kentucky and Indiana. Duke Energy Florida ("**DEF**") is a subsidiary of Duke Energy and distributes power over much of central and north Florida. The Florida Public Service Commission (the "**Commission**") regulates DEF and other electric utilities in Florida (including municipal or investor-owned electric utility, and rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system).

Summary of Legislative Provisions on Asset Securitization

In 2015, section 366.95 of the Florida Statutes is created to enable "financing for certain nuclear generating asset retirement or abandonment costs". This section includes asset securitization provisions to allow investor-owned electric utilities to set up a special-purpose vehicle ("**SPV**") to issue secured bonds to finance the utility's costs ("nuclear asset-recovery costs") associated with the "early retirement or abandonment of a nuclear generating asset unit". These provisions were likely introduced in response to the closing of Duke Energy's Crystal River nuclear plant in 2013. According to DEF, "[t]his process, called Asset Securitization, will save customers approximately $600 million as compared to traditional cost recovery methods."[1]

Subsection (1) sets out the definitions of some key terms used in the section. The definition of "Assignee" provides examples of different legal structures to set up the SPV, including corporation, limited liability company, trust, partnership or public authority. The definition of "utility" limits the scope of this section to "investor-owned electric utilities" by referring to the same definition in another section of the statute book. "Nuclear asset-recovery bonds" are issued by the utility or assignee, and secured by the "nuclear asset-recovery property", which is the property interest in the revenue stream arising from "nuclear asset-recovery charges".

Subsection (2) requires the utility to submit a petition to the Commission for a financing order before the nuclear asset-recovery bonds can be issued. The petition needs to demonstrate that securitization would result in cost savings or would avoid or mitigate rate impacts compared to the traditional method of cost recovery. Subsection (2) further requires the Commission to address specific areas in its financing order, including: (i) the amount of nuclear asset-recovery costs to be financed by the bonds and the period during which the charges can be imposed on customers; (ii) detailed fact findings on cost-effectiveness and rate impacts; (iii) a requirement that charges be nonbypassable and paid by all existing and future customers receiving transmission or distribution

[1] Duke Energy announcement, "Duke Energy Florida cuts rates for customers", February 8, 2016 <http://www.prnewswire.com/news-releases/duke-energy-florida-cuts-rates-for-customers-300216799.html>

services; and (iv) mechanisms for periodic adjustment in the nuclear asset-recovery charges.

Subsection (3) provides that the bonds are considered debt for the utility only for federal income tax purposes, and limits the Commission's power to impose certain requirements in the financing order.

Subsection (4) sets out specific requirements for utility bills, such as showing the nuclear asset-recovery charge as a separate line item on the utility bill.

Subsection (5) creates a property right in the nuclear asset-recovery charges, which exists even if the charges have not been billed and may be pledged to secure the nuclear asset-recovery bonds. The utility may create a wholly owned subsidiary (the SPV) for the limited purpose of "acquiring, owning, or administering nuclear asset-recovery property or issuing nuclear asset-recovery bonds under the financing order", which also protects the nuclear asset-recovery property from potential creditor claims. This subsection also provides priority rules for competing security interests in the nuclear asset-recovery property. Subsections (6) to (8) provides further guidance in connection with the transfer of nuclear asset-recovery property to an SPV.

Subsection (9) provides that the nuclear asset-recovery bonds are not debt of the state of Florida. An issue of such bonds does not obligate the state to levy any tax for its payment, although the state may provide bond guarantees or enhancements. Subsection (10) provides statutory authority for certain entities to invest in nuclear asset-recovery bonds. Subsection (11) provides a pledge from the state not to take actions to impair the value of the nuclear asset-recovery property. Subsections (12) to (15) include boilerplate provisions such as conflicts, severability and penalties for incompliance.

Duke Energy Florida's Financing Order and Bond Issuance

In November 2015, the Commission released Financing Order PSC-15-0537-FOF-EI to approve DEF's petition for the issuance of nuclear asset-recovery bonds in the amount of $1,283,012,000 plus financing costs. Under the financing order, DEF is authorized to impose a nuclear asset-recovery charge to repay the nuclear asset-recovery bonds and associated financing costs, which will be collected on a per-kWh basis from all applicable customer rate classes. The financing order authorizes DEF to impose the charge for a period not exceeding 276 months (23 years) from the issuance of the nuclear asset-recovery bond.

DEF created Duke Energy Florida Project Finance LLC for the issuance of of nuclear asset-recovery bonds in June 2016.

MOODY'S
INVESTORS SERVICE

RATING METHODOLOGY

Moody's Global Approach to Rating Securities Backed by Utility Cost Recovery Charges

Table of Contents:

1. SCOPE 1
2. EXECUTIVE SUMMARY 1
3. ANALYZING THE RISK FACTORS 3
4. MONITORING 6
MOODY'S RELATED RESEARCH 8

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1. Scope

This methodology describes our global approach to rating securities backed by utility cost recovery charges ("UCRC" bonds) that are established by special legislation and financing orders issued by utility regulatory bodies. The charges backing UCRC bonds rated by us have been established by state legislation and state utility regulatory bodies in the United States. For UCRC bonds backed by charges authorized by other jurisdictions, we will analyze the specifics of the securitization's legal framework and regulations – and their implications for the quality of the protections afforded to investors – within the general methodology described in this report.

Examples of cost recovery charges include those imposed to cover certain costs of utility companies that had been incurred in a regulated environment but could no longer be recovered because of a change to a more competitive regulatory regime (i.e., charges sometimes referred to as "stranded utility charges") and those imposed to pay for environmental cleanups, clean energy or for the replenishment of reserves established for repair of facilities damaged by natural calamities, such as hurricanes or tornados.

2. Executive Summary

A utility cost recovery charge bond is a bond typically issued by a special purpose entity of a utility, or by a special borrowing conduit, to recover specified costs as authorized by special legislation and a specific financing order issued by a public service utility regulatory body. The bonds are backed by a property right created by the legislation, which provides the right to impose and collect special charges on customers' monthly electric bills.

This credit rating methodology was republished on June 22, 2015 containing an updated monitoring section and minor other editorial updates in the body of the text and in certain footnotes. The content of this Credit Rating Methodology has not been changed.

The credit quality of the bonds depends on the legal strength of the property right, which in turn depends on the specifics of the related legislation and financing order, and on the size and economic strength and stability of the ratepayer base against which the costs will be imposed. Therefore, our credit analysis of cost recovery charge securitizations focuses on both legal and economic factors that can influence whether investors in UCRC bonds will be paid as promised.

On the legal side, we assess the extent to which the legislation that authorizes the cost recovery charges[1] provides clear procedures for insulating the transaction from claims by other parties and is likely to be able to withstand challenges to rescind or alter the legislation prior to the legal final maturity of the securities. Consequently, our analysis focuses on the extent to which the legislation clearly defines (1) a property that entitles the owner of such property – the utility, or, in some cases, a public trust or corporation – the right to charge the fee throughout the life of the security in an amount sufficient to make full and timely repayment of principal and interest on the security, (2) the process the owner of the property must follow to charge the fee, (3) the irrevocable right of the owner of the property to transfer the fee to a special purpose financing vehicle for securitization purposes, (4) the type of financing vehicle authorized to issue securities backed by the fees, and (5) the process to be followed such that the transfer would be viewed as a "true sale" of the rights to the cash flows rather than a pledge of collateral for a financing for transactions that involve the transfer of the property from the utility to the issuer. A true sale would insulate the securitization from a bankruptcy of the utility, protecting securitization investors from potential claims on the cash flows by the utility's creditors. In addition, we assess whether the legislation has a government pledge not to impair the utility's right to collect the charges and the consequences if the government nevertheless does attempt to impair the right.

We also examine the likelihood that other potential claimants, such as other creditors of the financing vehicle if it were to become bankrupt or investors in other securities that have been issued by the utility, might make a successful claim on the cash flows of the securitization. Furthermore, we consider the breadth of the market to whom the charge will be applied and the extent to which the charge might be "bypassable," that is, the extent to which current or future customers might be categorized as outside the scope of the applicability of the charge.

Our assessment of the overall legal strength of the property right involves qualitative and judgmental factors. Transactions that are strong with respect to each of such characteristics may achieve the highest rating while the impact of weakening any of the attributes would be evaluated on a case-by-case basis.

On the economic side, our analysis focuses on the likelihood that the charges established by the legislation and accompanying regulations will be sufficient to repay the securitization bonds and on whether the charges might become onerous enough to cause pressure to rescind or alter the charges through future legislative or legal actions. As part of that assessment, we evaluate (1) possible changes in the size and composition of the customer base against whom the fee is to be charged, incorporating an evaluation of the breadth and diversity of the customer base, (2) the likely per capita energy usage (in those cases in which the fee charged is based on the usage amount), and (3) the fee rate, including any mechanism built in by the legislation that enables the fee to be reset over time to offset shortfalls that might develop over the life of the securitization (i.e., the transaction's "true up" mechanism). Generally the true-up mechanism is in effect the most important credit protection for UCRC transactions, limiting the risk that the cost recovery charges will be insufficient to pay off the bonds, thereby limiting the need for traditional sources of credit enhancement such as subordination and reserve funds.[2]

In analyzing a transaction's true-up mechanism, we examine how high rates would need to be set under "stressful" future scenarios to fully pay off the bonds, to assess the risk that onerous future rates might cause pressure to overturn or change the legislation and/or regulations establishing the charges. The variables that we typically "stress" test for UCRC bonds are the base against which the charge is to be

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

[1] Throughout this report we use the terms "cost recovery charges" and "cost recovery fees" interchangeably.

[2] The true-up mechanism also limits the need to analyze the underwriting of the customer base, since the mechanism adjusts for all shortfalls, including those caused by customer defaults.

applied (usually energy usage) and the servicing fee. To obtain a high rating, we would expect that even in a stressful environment, such as one in which energy usage declined dramatically, the charge per customer necessary to pay off the bonds would be reasonably low both in absolute terms and as a percentage of the customer's energy bill. The specific stresses that we place on the variables are issuer-specific and are determined on a case-by-case basis.

In addition, we analyze the implications of other structural features of the securitization that could affect the risk of investor loss. For example, we examine the risk implications of how the cash flows are allocated among the various classes of investors and the other participants in the transaction, and the extent to which any other sources of funds are likely to be sufficient to offset any remaining shortfalls to investors, whether the shortfalls are temporary ("liquidity") or permanent ("credit enhancement").

3. Analyzing the Risk Factors

Because of the unique characteristics of this highly regulated asset class, our credit analysis of UCRC securitizations focuses primarily on the legislation and the true-up mechanism. The degree of certainty that the fees generated through the legislation will be sufficient to pay off the securitizations in full is a complementary aspect of the analysis. .

Depending on the risks and mitigants in the relevant jurisdiction, transaction ratings will typically be positioned between the government rating and the country ceiling. Risks that could lead us to determine transaction ratings to be lower than the country ceiling include, for example, continued high levels of debt burden in a utility system. Such high levels of debt, if deemed unsustainable in the long term, may lead to political pressure to adjust the regulatory framework around the system deficit, with some potential negative impact on the related securitization transactions.

In the following sections, we describe the factors that typically lead to a high degree of certainty and thus high ratings on the bonds.

3.1 Protection against Future Impairment of the Right to Collect the Charges

Utility cost recovery charges are established by special legislation that authorizes the creation of a property right to collect future surcharges on customers' monthly electricity bills as the means to pay back the UCRC bonds. Consequently, we analyze the extent to which investors are protected against the enactment of future legislative changes that would weaken that right. For example, investor risk would be mitigated in a situation in which (1) the legislation contained a pledge by the jurisdiction not to impair the right to collect the special charges until the maturity of the bonds and (2) violation of that pledge would be a violation of law [3].

3.2 Irrevocability of the Financing Order

The legislation is typically accompanied by a financing order issued by the public service commission that authorizes the utilities to impose and collect the surcharges on the customer's monthly electric bill during the term of the bonds. Our analysis assesses whether the financing order is irrevocable, which would protect investors against future adverse changes that may reduce the charges backing the bonds.

3.3 Sufficiency of the Charges and the True-Up Mechanism

The charges are usually assessed as an amount linked to a customer's energy usage. Our analysis considers whether the financing order places any limits on charges – e.g., caps on the levels of charges or limits on the length of time that the charges can be imposed – that might cause the collections to be insufficient to provide for timely payment of the principal and interest on the UCRC bonds. In addition, we analyze whether the period over which the charges are allowed to be levied provides sufficient cushion to pay off the bonds by maturity in the event that collections come in more slowly than originally projected.

[3] Violation of the non-impairment pledge would be a violation of the Contract Clause and the Takings Clause under the Federal and State constitutions.

As part of that analysis, we evaluate the power of any true-up mechanism that is provided for in the legislation and detailed in the financing order to correct for shortfalls that may develop over the life of the securities. A true-up mechanism typically adjusts future fee rates on a scheduled periodic basis (e.g., semiannually or annually) to correct for any under- (or over-) collections in a preceding period and to ensure the full and timely payment of future scheduled debt service, based on updated usage forecasts. The greater the frequency with which the true-up adjustments are made, the less likely that investors will suffer a shortfall at the final maturity date.[4]

That is particularly important as the security approaches the final maturity date; frequent rate adjustments based on then-current projections mitigate the risk that actual collections will deviate substantially from those projections, limiting the possibility of shortfalls at the final maturity date. Consequently, our analysis assesses the conditions under which more frequent true-ups are allowed, especially near the final maturity.[5]

3.4 Non-Bypassability of the Charges

We evaluate whether the charges are "non-bypassable," that is, whether the charges must be collected from all existing and future customers of the utility or its successors or assignees within the utility's service territory, and whether the financing order provides that a severance fee be charged to customers who switch to other service providers within the territory during the life of the bonds. We evaluate any exceptions to the non-bypassabilty rule, and consider the materiality of those exemptions to the cash collections. Charges that cannot be bypassed (i.e., those that cannot be avoided by the customers in the utility's service area) ensure a continuing payer base for the charges, leading to less risk for investors. As described in the Structural Features section (Section 3.8), the power of the true-up mechanism to protect investors is dependent on the non-bypassability of the charges. As a result, non-bypassability (with limited, immaterial exemptions) has been a key factor behind the high ratings that are typically assigned to these transactions, without the need for considerable protection from traditional types of credit protection, such as reserve accounts or subordination.

3.5 Bankruptcy of the Utility

For structures in which the initial owner of the property is a utility, a bankruptcy of the utility could expose securitization investors to the risk that other creditors of the utility might make a claim on the cost recovery charges or that payments to securitization investors might be delayed as a result of an imposition of an automatic stay on payments from the utility company.[6,7] However, that risk would be limited if it were clear that a bankruptcy court would view the transfer of the rights to the charges as a "true sale" of those rights, rather than as a financing of the company. As a result, we analyze whether the legislation clearly establishes the utility's right to receive and transfer the rights to the charges and provides unambiguous procedures for transferring those rights to the financing vehicle as a true sale, and whether those procedures are followed in the financing order.

In cases where the utility is the servicer of the transaction, we analyze whether a bankruptcy of the utility could lead to a disruption in servicing, e.g., billing and collecting. However, given the essential service provided by the utility, we expect that government authorities would intervene to prevent any disruption in servicing that might result from a bankruptcy. As a result, where the servicer is a regulated utility, we view operational risk as low. Consequently, we typically would consider a transaction to be consistent with a Aaa rating even if the servicer were not investment grade, as long as the transaction were structured with some mitigants for operational risk, such as the inclusion of a backup servicer and/or provision for additional liquidity.[8]

[4] Generally, the charges collected rank senior to other charges of a utility system and represent only a small amount of the total revenues of such system .
[5] Transactions typically allow for more frequent true-ups during the "tail period" between the transaction's stated "expected" maturity (determined by the sponsor) and the "legal" final maturity. The legal final maturity is the important date from our rating perspective, the date by which all principal must be repaid.
[6] In some transactions, the property is created by law for the benefit of a public trust or corporation that also is created by the same law. In such cases, the true sale risk would be non-existent as there is no sale or transfer of the property.
[7] For a discussion of how Moody's analyzes legal risks in structured finance transactions, see Moody's Related Research section at the end of this report.
[8] The rating standard for a backup servicer likely would be lower than investment grade, but would depend on the specific facts and circumstances of the transaction and servicer.

In addition, we analyze whether the bankruptcy of the utility could cause a disruption in the remittance of payments by the utility to bondholders. Such a disruption could occur if the remittances of the charges were "commingled" with the other funds of the utility and the bankruptcy court ordered a halt to payments until proper ownership of the funds could be sorted out. Our analysis includes an assessment of the ways in which the utility separates the cost recovery charges received from its other funds and the frequency with which it transfers the funds to the trust.

3.6 Bankruptcy of the Financing Vehicle

Another potential risk to investors in UCRC securitizations is a bankruptcy of the financing vehicle. That could expose investors to the risk that other creditors of the vehicle might make a claim on the cost recovery charges or that payments to investors might be delayed by the imposition of an automatic stay. Consequently, we analyze (1) the likelihood that a third-party creditor would be able to successfully petition the owner of the assets (i.e., the financing vehicle) into an involuntary bankruptcy proceeding or (2) the likelihood that the owner of the assets would voluntarily seek the protection of the bankruptcy courts.

To analyze the likelihood of an involuntary bankruptcy, we assess the characteristics that would mitigate that risk, such as if the financing vehicle had (1) no assets other than the right to the cost recovery charges, (2) no indebtedness other that the securitization debt, (3) limited activities that could give rise to contractual or other liabilities, and (4) agreements with the sponsor and other contracting parties not to petition for the dissolution, liquidation or bankruptcy of the securitization vehicle. Similarly, factors that would mitigate the risk of a voluntary bankruptcy would include (1) charter documents of the owner of the assets that require directors who are independent of the utility and (2) a unanimous vote of directors as a condition to filing a voluntary bankruptcy.

3.7 Economic Factors

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We typically also look at stressful collection scenarios. For example, in one scenario, we assume (1) that energy usage falls short of the utility's projections[9] by a progressively increasing amount each year (typically 5% per year), (2) that forecasted collections in peak usage months do not materialize (for example, 100% of the collections in the peak month and 50% of the collections in the second highest-usage month), and (3) that the servicing fee is considerably higher than the current, "normal," servicing fee, representing the fee that would be required if the original servicer needed to be replaced in a stressful environment. In another scenario, we typically assume that energy usage is lower than projected by a set amount throughout the life of the securitization (typically 25%). For highly rated transactions, we would expect that the cost recovery charge would remain relatively low even in those highly stressful scenarios.

While the specific stresses that we place on the variables have been quite similar to date, this reflects the fact that all rated transactions to date have involved requests for the highest ratings and been supported by highly diverse, broad-based service areas. However, in general, stresses are issuer-specific and are determined on a case-by-case basis. One of the factors that we use to determine the appropriate stress level for a transaction is the variability of the base against which the charge is applied, for example, the population in the service area or the energy usage in the service area. Customer bases that are less broad-based and diversified tend to be more variable; as a result, we would apply more severe stresses in those situations.

[9] We typically assess the reasonableness of the utility's projections by analyzing (1) the historical energy usage in the utility's service region and the variances between past projections and actual outcomes, and (2) the likely growth in electricity usage in the service area of the utility, taking into account the projected economic growth in the region and the possible competitive impact of technological advances, such as those in the development of solar energy.

In particular, we evaluate the economic diversity of the utility's service region to assess the potential variability in its economic health, which tends to drive changes in population and energy usage. An area that relies on multiple industries for economic growth will likely have a more stable business climate than an area that is dependent on the fortunes of one industry. In the latter case, the area's prospects will falter if that particular industry runs into hard times.

We also consider the mix in the customer base among residential, commercial, and industrial users. A utility with a large residential base relative to commercial and industrial users will tend to have less volatility in energy consumption, since energy consumption by commercial and industrial operations is more closely tied to the business cycle. Furthermore, residential customers are less likely to quickly embrace new energy production technologies and are less likely to cut back energy consumption dramatically if the price of energy were to rise. The higher variability of a commercial and industrial base can be exacerbated further if the service area's customer usage is concentrated in a few large commercial or industrial operations, which could make the overall energy consumption vulnerable if those entities were to decline or leave the area.

3.8 Structural Features

The key structural feature of UCRC transactions is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage (through alternative sources of energy or conservation). To be consistent with a particular rating, a strong true-up mechanism combined with non-bypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds.

In addition, our analysis of the credit risk of a UCRC transaction incorporates our assessment of the implications of the transaction's cash flow allocation structure (sometimes referred to as the cash flow "waterfall"). In particular, we focus on the seniority of principal and interest payments to the bond's investors *vis-à-vis* payments to other participants. In addition, we analyze the extent to which the transaction has an alternative source of liquidity to pay principal and interest in the event that there is a temporary interruption in the flow of the cost recovery charges. For example, in many transactions there is a capital or reserve account with funds sufficient to pay interest for at least 1-2 months, if needed. Furthermore, we assess the extent to which the credit enhancement that is available in the transaction is likely to be sufficient to offset any shortfalls that might develop in the period between the final true-up adjustment and the maturity of the bonds.

4. Monitoring

In monitoring UCRC transactions, we apply the key components of this methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialise, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

Depending on the jurisdiction, we also follow the rating of the utility as a proxy to assess any changes to the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of the utility collecting the charges (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

In other instances, we may be more concerned with the behavior of the regulator of the utility system and less with individual utility companies. This could lead to a lower rating in the space between the local currency ceiling and the sovereign rating or the utility rating.

Thus changes on our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

Moody's Related Research

The credit ratings assigned in this sector are primarily determined by this credit rating methodology. Certain broad methodological considerations (described in one or more secondary or cross-sector credit rating methodologies) may also be relevant to the determination of credit ratings of issuers and instruments in this sector. Potentially related secondary and cross-sector credit rating methodologies can be found here.

For data summarizing the historical robustness and predictive power of credit ratings assigned using this credit rating methodology, see link.

Please refer to Moody's Rating Symbols and Definitions, which is available here, for further information.

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CREDIT OPINION
18 February 2016

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TABLE OF CONTENTS

Capital Structure 1
Summary Rating Rationale 1
Credit Strengths 2
Credit Challenges 2
Key Characteristics 3
Assets Overview 3
Assets Description 4
Assets Analysis 7
Additional Assets Analysis 11
Securitization Structure Overview 12
Securitization Structure Description 12
Securitization Structure Analysis 14
Methodology and Monitoring 16

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016A

Presale Report - Long Island Power Authority-Sponsored Securitization of Utility Cost Recovery Charge Assets

Capital Structure

Exhibit 1
Provisional (P) Ratings*

Series	Expected Amount	Tax Status	Interest Rate	Legal Maturity**	Provisional Ratings
2016A	[$381,730,000]	Tax-Exempt	Fixed	[12/15/2028]	(P) Aaa (sf)

The ratings address the expected loss posed to investors by the legal final maturity date. In Moody's opinion, the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the securitization. Other non-credit risks have not been addressed, but may have a significant effect on yield to investors.
* Principal amounts and legal maturity dates are preliminary and subject to change
** Reflects the latest legal maturity date among the tranches in the series
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016, and Moody's Investors Service

Summary Rating Rationale

The Utility Debt Securitization Authority (the issuer) intends to issue Restructuring Bonds, Series 2016A. The bond issuance will enable the Long Island Power Authority (LIPA, Baa1 stable) to retire a portion of its outstanding debt. This will be the third utility cost recovery charge (UCRC) securitization that LIPA has sponsored since 2013. These bonds are backed by restructuring property which consists of, among other things, the right to impose usage-based restructuring charges on all current and future retail electric customers in LIPA's service area.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of LIPA's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 18 February 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

and diversity of the ratepayer base in LIPA's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the 2016A restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of Legislation and Financing Order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015 permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other UCRC securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to UCRC bondholders that it will not 1) take or permit any action that limits, alters or impairs the value of the restructuring property, or 2) except as required by the adjustment mechanism, reduce, alter or impair restructuring charges until the bonds have been repaid in full (the state pledge). In addition, the LIPA Reform Act and financing order contain the typical strong true-sale and security interest provisions.

LIPA's irrevocable financing order authorizes the creation of restructuring property, which grants the issuer the irrevocable right to impose, bill and collect irrevocable, non-bypassable restructuring charges based on electricity usage from all of LIPA's existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

The financing order authorizes LIPA to recover the costs of retiring certain of its outstanding debt and the issuer to recover the costs of issuing, supporting and servicing the bonds. The issuer will recover these costs by collecting restructuring charges until the bonds are repaid in full, without any specified time limit.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually, and if necessary, semiannually (and quarterly after the last scheduled maturity date of the bonds of any series), in each case to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time without limitation as to frequency, if the servicer deems necessary to ensure timely bond payments. New to the 2016A transaction, the servicer may elect to perform an additional voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). Also, the timing of the mid-year and annual true-ups has changed to help smooth charges over the course of the year.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in LIPA's service area is a credit strength. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (89%) and commercial customers (10%). Unlike most other UCRC securitizations, the service area includes very few industrial customers, which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Credit Challenges

Challenges to LIPA Reform Act and Financing Order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the securitizable restructuring property; however we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the LIPA Reform Act. Therefore, the only way to repeal or amend the LIPA Reform Act, or for LIPA to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

Potential for Insufficient Collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration and self-generation. PSEG-LI's estimates of market demand, energy prices and growth within LIPA's service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur annually, semiannually and on an interim basis as needed.

Relatively High Restructuring Charge: LIPA expects the securitization's initial restructuring charge to represent around [0.79%] of the total monthly bill that an average 1,000 kilowatt hour (kWh) residential customer in LIPA's service area will receive as of June 1, 2016. The initial restructuring charge for the 2016A transaction, combined with the current restructuring charge for the 2013 and 2015 transactions, is expected to represent approximately [6.91%] of a typical residential customer's bill, and is relatively high compared to other utility cost recovery transactions. This concern is mitigated by LIPA's securitization offset rider, which reduces LIPA's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Exhibit 2

Asset Characteristics

Assets:	Restructuring property consisting of the issuer's irrevocable right to impose, charge and collect irrevocable, non-bypassable usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up adjustment mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full
Service Area:	Approximately 1.1 million customers in Nassau and Suffolk counties[1] and the Rockaway Peninsula

1. Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	[$381,730,000]1
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Collection Accounts and Debt Service Reserve Account
Sponsor/Seller/Initial Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority, a special purpose corporate municipal instrumentality of the State of New York
Operations Agent:	PSEG-Long Island
Trustee:	Bank of New York Mellon (Aa1/Aa2 stable, a1) 2

1. Preliminary and subject to change based on market conditions
2. The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Offering Statement dated February 18, 2016

Assets Overview

The collateral for this pool is the restructuring property consisting of the irrevocable right to impose, charge and collect non-bypassable, usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow LIPA to finance the retirement of a portion of its outstanding debt through the issuer's issuance of restructuring bonds, resulting in savings to LIPA's customers on a net present value basis. The securitization law gives LIPA the right to impose restructuring charges, which are the key asset of this securitization.

Prior to the legislature's amendment of the securitization law on March 26, 2015, the law permitted only one issuance of restructuring bonds by the issuer, and that issuance took place in December 2013 pursuant to Financing Order No. 1. The amended securitization law permits LIPA's Board of Trustees to adopt additional financing orders to, among other things, authorize the creation of additional restructuring property and the issuance of additional restructuring bonds in an aggregate additional amount not to exceed $4.5 billion (inclusive of the $2,022,324,000 previously issued 2013 restructuring bonds and the $1,002,100,000 previously issued 2015 restructuring bonds). After the 2016A issuance, LIPA will have authority to issue an additional [$1,093,846,000] billion of restructuring bonds under the securitization law.

Specifically, the securitization law coupled with the financing order authorizes LIPA to sponsor multiple bond issuances to finance the recovery of the costs of retiring a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds.

Similar to other UCRC securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that will be incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

Specifically, the State of New York pledges to and agrees with the bondholders, the issuer and LIPA that the State will not in any way: 1) take or permit any action that limits, alters or impairs the value of the restructuring property; or 2) except as required by the adjustment mechanism authorized by the securitization law and set forth in the financing order, reduce, alter or impair restructuring charges that are imposed, collected and remitted for the benefit of the bondholders until all principal of and interest on the bonds and all ongoing financing costs have been repaid in full.

The state pledge provides protection to bondholders; to the extent LIPA or the State of New York have obligations under the financing order, the LIPA Reform Act provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to change the securitization law would be through a legislative action which would be subject to the state pledge.

The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims.

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

Hawkins Delafield & Wood LLP, LIPA's special counsel, will provide a legal opinion prior to securitization closing to the effect that the bondholders (or the trustee acting on their behalf) could successfully challenge under the contracts clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Hawkins Delafield & Wood LLP, LIPA's bond counsel, will provide a legal opinion prior to securitization closing to the effect that under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The Financing Order

The securitization law authorizes LIPA's securitization program, while a separate financing order implements each issuance of bonds under the program.

On June 26, 2015, LIPA Trustees adopted Financing Order No. 3 (the financing order), together with Financing Order No. 2 and Financing Order No. 4 and on July 15, 2015, the New York Public Authorities Control Board approved them. On August 14, 2015, they became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, and the 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property.

The issuer is issuing the 2016A restructuring bonds pursuant to Financing Order No. 3, which authorizes: 1) the creation of the 2016A restructuring property; 2) LIPA to sell the 2016A restructuring property to the issuer under the financing order (the 2016A restructuring property is created simultaneously with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the 2016A restructuring property from LIPA and pay upfront financing costs; and 6) LIPA to use the proceeds of the sale of the 2016A restructuring property to retire a portion of its outstanding debt

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with LIPA setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of LIPA to review and approve the issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The 2016A Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and non-bypassable restructuring charges from all of LIPA's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism to ensure the expected collection of amounts sufficient to pay the amounts specified above on time. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from LIPA's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the Public Service Commission.

Restructuring Charges are Non-Bypassable

The securitization law provides that the restructuring charges are non-bypassable. "Non-bypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (LIPA's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if LIPA no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

Self-Generation in the Service Area is Low

Self-generation, which primarily includes solar and wind, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Self-generation is currently very small in the service area at roughly 0.3% of energy sales. LIPA forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. Certain customers that self-generate will only be responsible for paying restructuring charges based upon their "net-billed" consumption.

Municipalization

Municipalization, or the transfer of the T&D system assets to a municipal owner, would not affect restructuring charge collections because the customers are required to pay the restructuring charges even if the T&D system assets are no longer owned by LIPA. Since 1998, no municipalizations have occurred.

The Service Area

LIPA provides electric transmission and distribution services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which LIPA provided electric transmission and distribution services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. Of these, approximately 89.3% were residential, 10.2% commercial (with very few industrial customers), 0.5% street lighting and 0.0% other public authorities; the average number of customers has been fairly stable over the last 10 years, with very small year-over-year changes ranging from -0.2% to 0.7%. Retail electric usage was 48.2% residential, 48.8% commercial, 0.7% street lighting and 2.2% other public authorities.

In the year ending December 31, 2015, LIPA's largest customer, the Long Island Rail Road, accounted for less than 2.0% of LIPA's total sales, and LIPA's top 10 customers accounted for approximately 7.0% of LIPA's total sales.

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs (the revenue requirement)

3. mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
5. more frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. after the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Under the financing order, the adjustments are to be based on actual charge collections and the servicer's updated assumptions for projected future charge collections, projected uncollectibles and loss in collection of billed charges, and future payments and expenses relating to the restructuring property and the bonds.

No Third-Party Billing/Collection of Charges

Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor regulator will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

Assets Analysis

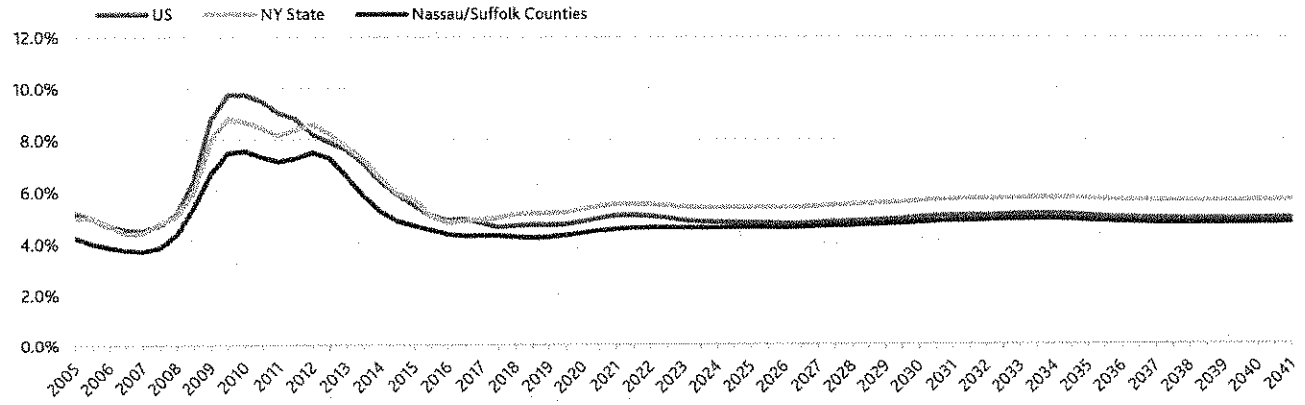
Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, 19 colleges and universities and core research institutions, such as Brookhaven National Laboratory, Cold Spring Harbor Laboratory, and the technology and science developmental centers at Stony Brook and Farmingdale Universities that specialize in the areas of biotechnology, computer sciences, wireless and internet technologies, and energy.

Long Island's median household income is substantially above that of New York and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $98,401 and $88,323, respectively, considerably higher than the $58,687 for New York and the $53,482 for the US. According to LIPA, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 4 shows that the Nassau-Suffolk unemployment rate is lower than that of the US, and we forecast the rate will remain lower.

Exhibit 4
Unemployment Rate*



* Data does not include the Rockaways, Queens, which is also part of the service area.
Source: US Bureau of Labor Statistics and Moody's Analytics

Exhibit 5 shows Moody's Analytics' forecasted average year-over-year changes in various economic stability measures for the service area, compared with New York and the US. The data include Nassau and Suffolk counties, but exclude the Rockaways in Queens, NY. The exhibit shows that forecasted population growth will be relatively flat.

Exhibit 5
Forecasted Average Year-Over-Year Changes in Population and Economic Stability Measures
(Data for 2016-2041, the scheduled maturity date of the bonds)

	Nassau-Suffolk *	New York	US
Population	0.1%	0.1%	0.7%
Households	0.3%	0.4%	0.9%
GDP (Chained 2009 $)	1.6%	1.4%	2.0%
Per Capita Income	3.3%	3.6%	3.6%
Employment (non-farm payroll)	0.5%	0.5%	0.8%

* Does not include the Rockaways, Queens, which is part of the service area
Source: Moody's Analytics

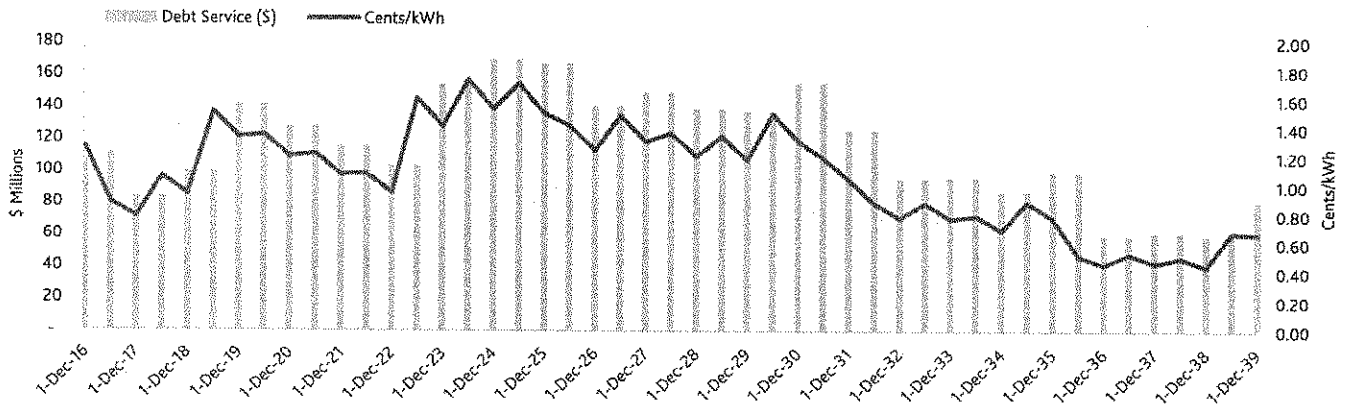
Remote Risk of Severe Ratepayer Base Declines

The securitization's performance is exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's diverse ratepayer base.

LIPA expects the combined initial restructuring charge for the 2013, 2015 and 2016A transactions to be around [6.91%] of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 1, 2016, which is higher than most other UCRC securitizations we rate. The [6.91%] is preliminary and subject to change based on market conditions.

Exhibit 6 shows LIPA's expected restructuring charge, which is the same for all customer classes, and annual debt service of the bonds over the securitization's life. The exhibit shows that the restructuring charge will vary over time to cover the unlevel debt service of the bonds, which mirrors the unlevel debt service of the retired LIPA bonds.

Exhibit 6
Restructuring Charge (Cents/kWh) and Annual Debt Service*



* Preliminary and subject to change based on market conditions.
Source: LIPA; Moody's calculations

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a typical residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand.

Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We looked at three scenarios. In our base case, we assumed 1) electricity consumption as per LIPA's projections, 2) annual net charge-offs as per LIPA's projections, 3) collection curve as per LIPA's projections and 4) actual servicing fee and other expenses (Scenario A).

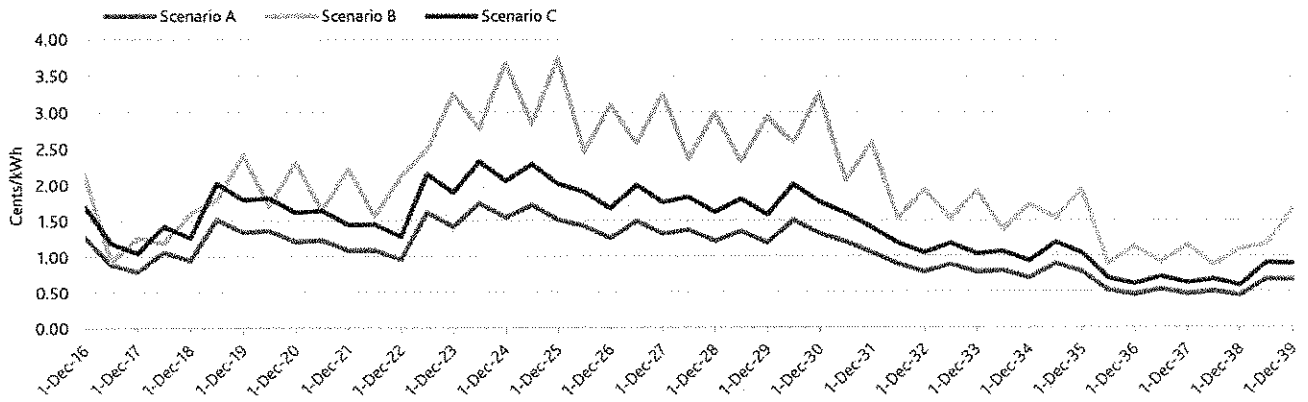
In our first stress scenario, we assumed 1) electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers, 2) annual net charge-offs are the same as in base case, 3) collection curve is the same as in base case, 4) loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year and 4) replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case (Scenario B).

In our second stress scenario, we assumed 1) electricity consumption is reduced by 25% permanently against the first year base case projection, 2) annual net charge-offs the same as in base case, 3) collection curve is the same as in base case and 4) servicing fee and all other fees the same as in base case (Scenario C).

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 7 shows the projected restructuring charges for customers in cents per kWh, and Exhibit 8 shows the projected restructuring charge as a percentage of the typical residential customer's total bill assuming monthly usage of 1,000 kWh over the securitization's life.

Exhibit 7

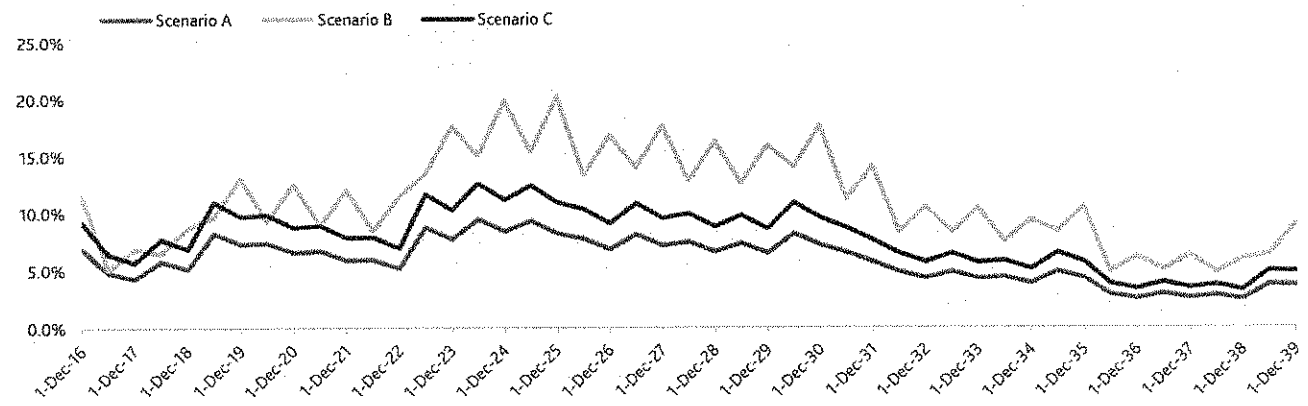
Restructuring Charge (Cents/kWh)



Source: LIPA and the servicers; Moody's calculations

Exhibit 8

Restructuring Charge as a Percentage of a Typical Residential Customer's Total Bill



Source: LIPA and the servicers; Moody's calculations

Forecasting Electricity Consumption

The company monitors the accuracy of each forecast by conducting variance analysis on a monthly basis taking into account weather impacts on kWh sales and deviations from forecast within the customer count. LIPA factors the impact of weather and the growth in self generation, energy efficiencies and the use of electric vehicles into its forecasts.

Exhibit 9 shows LIPA's annual forecast variance for ultimate electric delivery by customer class.

Exhibit 9

Annual Forecast Variance for Ultimate Electric Delivery (MWh)

	2011	2012	2013	2014	2015
Residential	4.3%	-2.4%	-2.7%	-4.3%	0.5%
Commercial	-1.0%	-3.6%	-2.4%	-1.7%	-2.1%
Street Lighting	0.2%	-2.2%	-4.4%	1.7%	-3.8%
Other Public Authorities	5.5%	-13.6%	-4.2%	3.1%	2.5%
Total	1.6%	-3.2%	-2.6%	-2.8%	-0.8%

Note: Negative variance means that the actual electric delivery is lower than the forecasted electric delivery.
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Additional Assets Analysis

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, LIPA or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

PSEG LI will perform, and is capable of performing, LIPA's key servicing duties, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among other things. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

PSEG is a publicly traded energy and energy services company. As of September 30, 2015, it had total assets of approximately $36.5 billion, latest twelve months revenues of approximately $10.9 billion; and employed approximately 12,700 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company (PSE&G), New Jersey's largest regulated electric and gas transmission and distribution utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets, pursuant to the securitization documents.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Loss Experience

Exhibit 10 shows the annual net charge-offs for LIPA, including net charge-offs of customers as part of LIPA's annual charge-off reconciliation process.

Exhibit 10

Net Charge-Offs as a Percentage of Total Billed Retail Electricity Service Revenues

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Billed Electric Revenues ($000)	3,620,532	3,413,091	3,834,255	3,753,765	3,572,133
Net Charge-Offs ($000)	24,753	19,750	20,969	24,659	23,948
Percentage of Billed Revenue	0.68%	0.58%	0.55%	0.66%	0.67%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Days Sales Outstanding

Exhibit 11 shows the average number of days that LIPA's bills remained outstanding during each of the calendar years below.

Exhibit 11

Average Days Sales Outstanding

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Average Days Sales Outstanding	38.55	39.23	39.40	37.13	36.78

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Delinquency Experience

Exhibit 12 shows the delinquency experience of LIPA during each of the calendar years below.

Exhibit 12
Average Monthly Delinquencies of Total Annual Billed Retail Electricity Delivery Service Revenues

	2011	2012	2013	2014	2015
30-59 days	$ 52,766	$ 50,348	$ 59,196	$49,980	$42,775
60-89 days	$ 28,940	$ 28,018	$ 32,104	$24,937	$21,223
90+ days	$108,208	$116,791	$135,828	$86,419	$87,580

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Securitization Structure Overview

LIPA intends to issue one series of tax-exempt, fixed rate bonds, Series 2016A, secured by the collateral on a pari passu basis. Some of the Series 2016A Bonds will be serial bonds, while others will be term bonds, with the term bonds subject to mandatory sinking fund payments. The issuer will have the option to redeem the Series 2016A Bonds with a legal final maturity date on or after [ ], in whole or in part and in any order, on and after [ ]. *All dates in this paragraph will be determined prior to closing.*

Securitization Structure Description

Bond Structure

The issuer will make payments on the bonds semiannually, on June 15 and December 15 of each year, beginning in December 2016. Interest will be paid pro rata among the tranches.

All tranches of bonds will be paid pro rata if the bonds are accelerated following an event of default under the indenture. Partial payments of any scheduled payments will be allocated pro rata between tranches of bonds with the same legal final maturity date.

Optional Redemption

The issuer will not have the option to redeem the Series 2016A Bonds with a final maturity date prior to [ ]. The issuer will have the option to redeem the Series 2016A Bonds with a final maturity date on or after [ ], in whole or in part and in any order, on and after [ ], at a redemption price of 100% of the principal amount of the Series 2016A Bonds to be redeemed, plus accrued interest to the redemption date. *All dates in this paragraph will be determined prior to closing.*

Indenture Accounts

The trustee will hold the collection account in its name and will deposit the restructuring charge collections and all other amounts it receives with respect to the collateral. The collection account will consist of five subaccounts: the general subaccount, the excess funds subaccount, the operating reserve subaccount, the debt service reserve subaccount and the upfront financing cost subaccount.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other ongoing financing costs to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;

6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;
7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates.

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

The annual true-up adjustment will be calculated to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment.

Events of Default

The Events of Default under the indenture are:

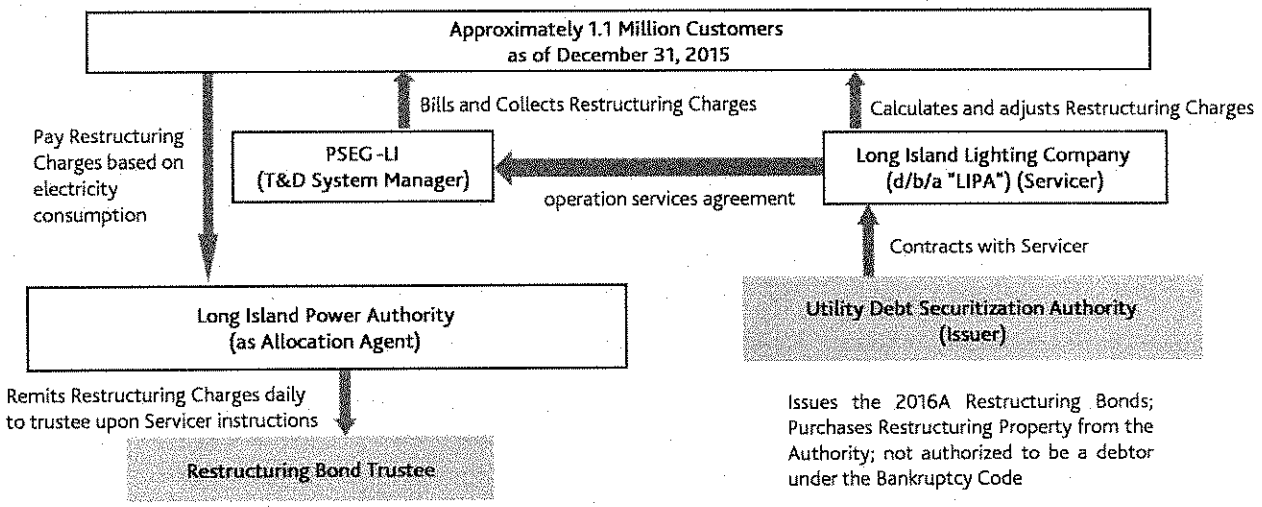
1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period); or
5. an action violating the financing order or state pledge.

Securitization Structure Analysis

Securitization Parties and Responsibilities

Exhibit 13 provides a general summary of the key securitization parties, their roles and their various relationships to the other parties.

Exhibit 13
Securitization Parties and Responsibilities

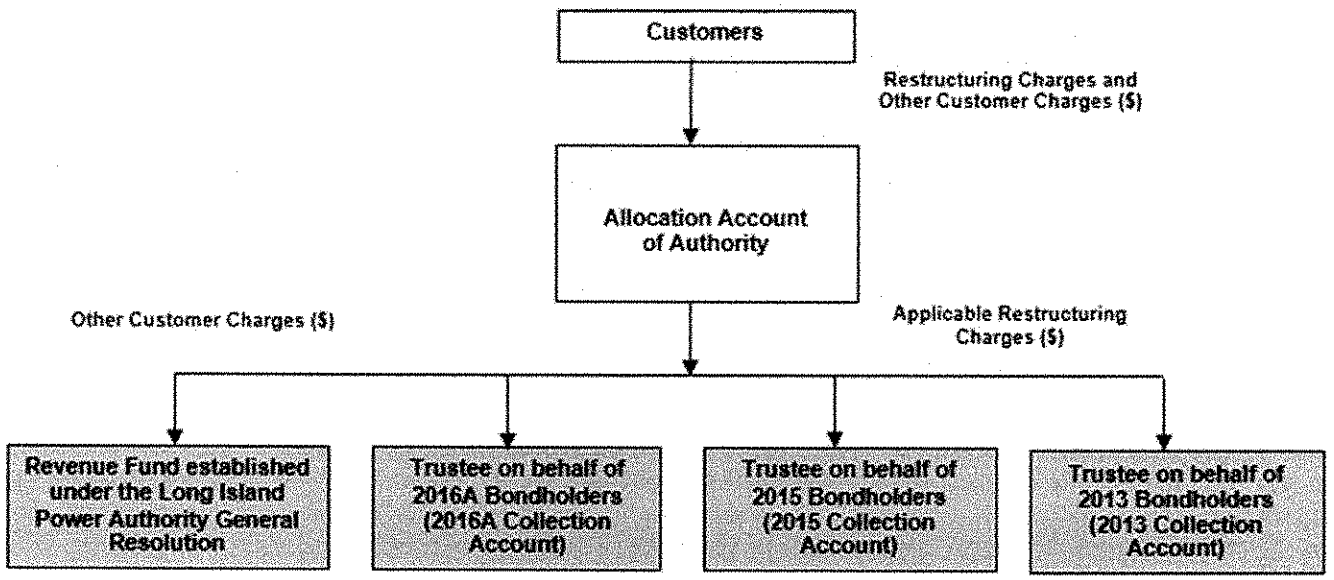


Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Flow of Funds

Exhibit 14 shows a general summary of the securitization's flow of funds: PSEG-LI will bill and collect the restructuring charges from LIPA's customers on behalf of the servicer. The servicer will be required to cause all customer payments (including restructuring charge collections) to be deposited into the allocation account, which LIPA established to hold all payments until the checks clear. Initially, the account will be held by J.P. Morgan Chase Bank. If customers make payments directly to the servicer instead of to the allocation account, the servicer must remit such payments to the allocation account within two business days' receipt by the servicer or LIPA. LIPA, as allocation agent, will control and administer the allocation account for the benefit of the trustee for the holders of the bonds and the trustee for the holders of LIPA bonds. On each business day, the allocation agent must transfer to the collection account the amount of restructuring charge collections that the servicer estimates to have been received and deposited into the allocation account on such day.

Exhibit 14
Flow of Funds



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Legal Structure

The primary steps of the securitization are as follows:

1. The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under chapter 9 or any other provision of the Bankruptcy Code. The securitization law formed the issuer solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.
2. The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from LIPA and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.
3. LIPA will use the proceeds from the sale of its restructuring property to retire certain of its outstanding debt. LIPA will act as the servicer of the restructuring property under a servicing agreement with the issuer and as the issuer's administrator under an administration agreement with the issuer. PSEG-LI will act as LIPA's service provider and will perform LIPA's key servicing duties under an operations servicing agreement with LIPA.

Sponsor and Seller

LIPA will be the securitization's sponsor and the seller of the restructuring property. LIPA is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a chapter 9 debtor pursuant to its enabling legislation.

LIPA took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of LIPA through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

LIPA is governed by a Board of Trustees (LIPA Trustees) and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. LIPA is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

Pursuant to LILCO's organizational documents, LIPA conducts and manages LILCO's business and affairs. Accordingly, LILCO is controlled by LIPA.

LIPA and LILCO are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LILCO conducts the electric business in the service area and is responsible for providing service to customers in the service area. LIPA and LILCO are also parties to an administrative services agreement pursuant to which LIPA provides personnel, personnel-related services and other services necessary for LILCO to provide electric service in the service area.

To assist LIPA (acting through LILCO) in providing electric service in the service area, LIPA and LILCO have entered into operating agreements to provide them with the operating personnel and a significant portion of the power supply resources necessary for LILCO to continue to provide such electric service. From 1998 through 2013, National Grid plc, certain of its subsidiaries (National Grid subs) or their predecessors performed most such operations.

Beginning in 1998, a National Grid sub was the manager of LILCO's electric T&D system under a management services agreement which expired at the end of 2013. Beginning January 2014, PSEG-LI assumed the role from the National Grid sub. T&D system management services include, among other functions, the day-to-day operation and maintenance of the T&D system, customer service, billing and collection, meter reading and forecasting energy consumption.

In July 2013, New York Governor Andrew Cuomo signed the LIPA Reform Act, codified as Chapter 173, Laws of New York, into law. On March 30, 2015, the New York State Assembly and Senate adopted Chapter 58 of the Laws of New York, 2015, which amended the LIPA Reform Act to authorize the issuer to issue additional restructuring bonds. On April 13, 2015, the Governor signed Chapter 58 into law. On May 13, 2015, the time for filing any challenges to the LIPA Reform Act, as amended, expired and no such challenges were filed.

The LIPA Reform Act effectively shifted the major operational and policy-making responsibilities for the T&D system, including significant responsibilities relating to capital expenditures, budgets and emergency response, from LIPA to PSEG-LI. PSEG-LI's scope of services and LIPA's reserved rights have been adjusted to reflect the shift in operations, management and policy making responsibilities while enhancing LIPA's oversight rights. The LIPA Reform Act also requires that staffing be kept at levels only necessary to ensure that LIPA is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and to oversee the activities of PSEG-LI.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

MOODY'S INVESTORS SERVICE

CREDIT OPINION
29 July 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016B

Long Island Power Authority-Sponsored Utility Cost Recovery Bonds

Capital Structure

Exhibit 1

Provisional (P) Ratings*

Series	Provisonal Rating	Expected Amount	Tax Status	Coupon	Payment Frequency	Expected Maturity	Legal Final Maturity**
Series 2016B	(P)Aaa (sf)	$475,000,000	Tax Exempt	Fixed	Semi-annual	12/15/2033	12/15/2035

The ratings address the expected loss posed to investors by the legal final maturity. In our opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Our ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.

* Principal amounts and legal maturity dates are preliminary and subject to change

** Reflects the latest legal maturity date among the tranches in the series

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Summary Rating Rationale

We have assigned provisional ratings to the single series of bonds (Series 2016B bonds, or the bonds) that Utility Debt Securitization Authority (the issuer) will issue. The Long Island Power Authority ("the Authority", Baa1 stable), which is a corporate municipal instrumentality and a political subdivision of the State of New York, is sponsoring the transaction. The Authority wholly owns the Long Island Lighting Company (doing business as "LIPA", the servicer), which provides electric transmission and distribution services in most of Nassau and Suffolk counties and a portion of Queens county. New York State legislation formed the issuer to securitize a special charge (the restructuring charge) imposed on the Authority's customers' utility bills. The Authority will use the proceeds of the securitization to retire a portion of its outstanding debt. The Series 2016B bonds will be the fourth utility cost recovery bonds sponsored by the Authority since 2013.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 28 July 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

The primary collateral backing the Series 2016B bonds is the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area (the restructuring property). New York State legislation, along with an irrevocable financing order adopted by the Authority on June 26, 2015, authorizes the creation of the restructuring property.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of the Authority's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability and diversity of the ratepayer base in the Authority's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of legislation and financing order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015, permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other utility cost recovery charge securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order (the state pledge). In addition, the securitization and financing order contain the typical true-sale and security interest provisions.

The Authority's irrevocable financing order authorizes the Authority to recover specified costs of retiring its corporate debt by collecting restructuring charges. The restructuring property grants the issuer the irrevocable right to impose, bill and collect irrevocable, nonbypassable restructuring charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. Nonbypassable refers to the requirement that the charges be levied on all of the Authority's existing and future retail electric customers receiving transmission and distribution services in its service area, including customers of any Authority successor or assignee.

True-up adjustment mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually and, if necessary, semiannually, to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments at any time if the servicer deems necessary to ensure timely bond payments. The servicer may also elect to perform a voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). This voluntary mid-year adjustment helps reduce the volatility of the restructuring charge to customers. The inclusion of an operating reserve account and a debt service account provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between true-ups.

Affluent ratepayer base: The size, economic stability and diversity of the ratepayer base in the Authority's service area are credit strengths. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (54% by revenue) and commercial customers (43% by revenue).

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

Experienced servicer: LIPA has considerable prior servicing experience with restructuring charges, including acting as servicer for the Authority's three outstanding utility cost recovery charge securitizations.

Although LIPA is the named servicer for this securitization, PSEG Long Island LLC (PSEG-LI, unrated), a subsidiary of Public Service Enterprise Group Incorporated (Baa2, positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others. PSEG-LI currently performs these same functions for the three outstanding utility cost recovery charge securitizations sponsored by the Authority. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

Credit Challenges

Challenges to securitization law and financing order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the restructuring property. However, we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for the Authority to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered. Several past challenges to securitization laws such as this in other jurisdictions have been unsuccessful.

Potential for insufficient collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. The Authority's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, by which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments are required to occur annually and can occur semi-annually and at the discretion of the servicer on an interim basis as needed.

Relatively high restructuring charge: The Authority expects the securitization's initial restructuring charge to represent around 2.55% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in the Authority's service area will receive as of June 15, 2017. The initial restructuring charge for the 2016B transaction, combined with the current restructuring charge for the 2013, 2015 and 2016A transactions, is expected to represent approximately 7.8% of a 1,000 kWh residential customer's bill. This percentage charge is relatively high compared to charges in other utility cost recovery bond transactions. For context, the three most recent utility cost recovery bond issuances we rated, Duke Energy Florida Project Finance, LLC, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 2.5%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively. A high cumulative recovery charge could incentivize a legal challenge to the restructuring charges or the securitization law, or could increase political pressure to rescind or change the securitization law through legislation. This concern is mitigated by the Authority's securitization offset rider, which reduces the Authority's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Restructuring property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from the Authority or its successors or assignees
Service Area:	The Authority's service area covers approximately 1.1 million residential, commercial customers in Nassau and Suffolk counties* and the Rockaway Peninsula

*Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	$475,000,000*
Structure:	Discrete trust
Credit Enhancement:	Mandatory uncapped true-up mechanism; operating reserve account (0.5%); debt service reserve account (1.5%)
Transaction Parties	
Sponsor/Depositor/Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority
Transmission and Distribution System Manager:	PSEG Long Island LLC (unrated)
Trustee:	The Bank of New York Mellon Trust Company, National Association (Aa1/Aa2 stable, a1)**

*Preliminary and subject to change based on market conditions
**The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Overview

The collateral for this pool is the restructuring property, consisting of the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area.

The bonds are also secured by funds on deposit in the collection account, including the debt service reserve subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds with respect to the pledged collateral.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow the Authority to finance the retirement of a portion of its outstanding debt through the issuance of restructuring bonds by the issuer, resulting in savings to the Authority's customers on a net present value basis. The securitization law gives the Authority the right to impose restructuring charges, which is the key asset backing this securitization.

The securitization law, coupled with the adoption of additional financing orders, authorizes the Authority to create additional restructuring property as collateral for the issuance of bonds. The Authority will use this issuance to retire a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds. The current financing order allows for an aggregate amount not to exceed $4.5 billion (inclusive of the previously-issued bonds: $2,022,324,000 in 2013, $1,002,115,100 in 2015 and $636,770,000 in 2016). After the Series 2016B issuance, the issuer has capacity issue an additional $363.8 million of restructuring bonds under the initial authorization.

Similar to other utility cost recovery charge securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that is incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

The Financing Order

On June 26, 2015, the Authority adopted Financing Order No. 4 (the financing order), together with Financing Order No. 2 and Financing Order No. 3; all of which were approved by the New York Public Authorities Control Board on July 15, 2015. On August 14, 2015, the financing orders became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the Series 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, the Series 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property and the Series 2016A restructuring bonds that the issuer issued pursuant to Financing Order No. 3 are secured by the 2016A restructuring property.

The issuer is issuing the bonds pursuant to the financing order, which authorizes: 1) the creation of the restructuring property; 2) the Authority to sell the restructuring property to the issuer under the financing order (the restructuring property is created simultaneous with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the restructuring property from the Authority and pay upfront financing costs; and 6) the Authority to use the proceeds of the sale of the restructuring property to retire a portion of its outstanding debt.

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with the Authority setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of the Authority to review and approve the

issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The State Pledge

The securitization law includes a pledge from the State of New York to the bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order.

Any action of the New York legislature adversely affecting the restructuring charges or the ability to impose, charge or collect the restructuring charges would likely require the State of New York to pay just compensation under the "takings clause" of the United States and State of New York Constitutions.

The state pledge provides protection to bondholders. To the extent the Authority or the State of New York have obligations under the financing order (e.g. to file for true-up adjustments), the securitization law provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

The Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and nonbypassable restructuring charges from all of the Authority's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism. This is designed to ensure the expected collection of amounts sufficient to timely pay the amounts specified above. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from the Authority's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the New York Public Service Commission.

The restructuring charges are nonbypassable; "nonbypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (the Authority's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if the Authority no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

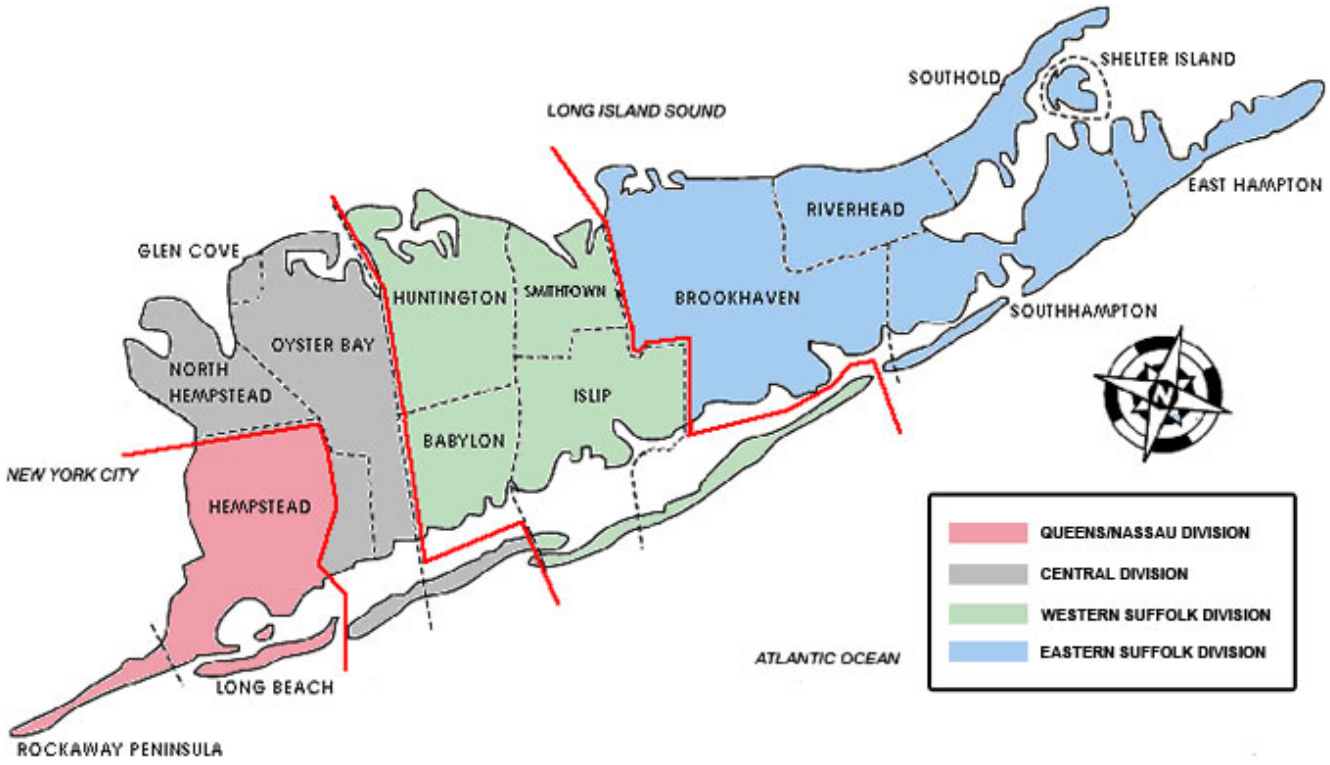
The Service Area

The Authority provides electric T&D services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which the Authority provided electric T&D services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. In 2015, retail electric usage was 54.4% residential, 43.5% commercial, 0.7% street lighting and 1.5% other public authorities. Exhibit 4 below shows the service area.

Exhibit 4
LIPA Service Area



Source: PSEG-LI website

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. Initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. Standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs
3. Mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. Voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs

5. More frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. After the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, the Authority, or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

Although LIPA is the named servicer for this securitization, PSEG-LI, a subsidiary of Public Service Enterprise Group Incorporated (PSEG, Baa2 positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting the restructuring charges, meter reading and forecasting electricity usage, among others. PSEG is a publicly traded energy and energy services company. As of December 31, 2015, it had total assets of approximately $37.5 billion, last twelve months revenues of approximately $10.4 billion; and employed approximately 13,000 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company, New Jersey's largest regulated electric and gas T&D utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets.

Billing

PSEG-LI will perform LIPA's duties of billing and collecting the restructuring charges, meter reading and forecasting electricity usage. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

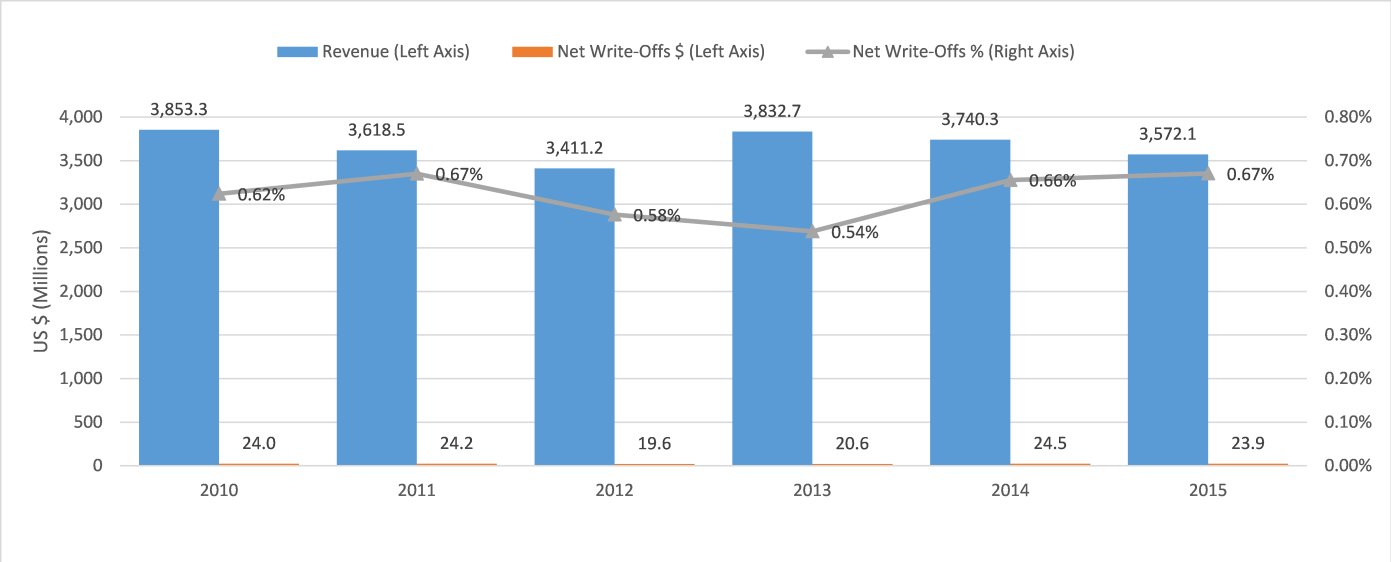
Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor servicer, and any owner of the T&D system assets will take steps to ensure nonbypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor servicer will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Exhibit 5 below shows net write-offs since 2010, which have ranged from a low of 54bps of billed revenue in 2013 to a peak of 67bps in 2011 and 2015.

Exhibit 5

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Exhibit 6 below shows LIPA customer delinquency data since 2010.

Exhibit 6

Average Monthly Delinquencies as a Percentage of Total Billed Revenues

	2010	2011	2012	2013	2014	2015
30-59 days	1.40%	1.46%	1.48%	1.54%	1.34%	1.20%
60-89 days	0.73%	0.80%	0.82%	0.84%	0.67%	0.59%
90+ days	2.43%	2.82%	3.42%	3.54%	2.31%	2.46%
Total	4.56%	5.08%	5.72%	5.93%	4.31%	4.25%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Analysis

Legal Analysis

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

New York does not have a referendum or initiative process by which the securitization law may be challenged. Therefore, the only way for the securitization law to be changed would be through a legislative action which would be subject to the state pledge.

Bondholders (or the trustee acting on their behalf) could challenge under the Contract Clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would likely be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The financing order provides that the restructuring property may be pledged to secure the payment of the bonds, financing costs, and other amounts owed. The securitization law provides that a valid and enforceable security interest in the restructuring propery will attach and be perfected at the time the pledge is made. The lien and security interest attach without any physical delivery of collateral or other act. The securitization law provides that the pledge is continuously perfected and has priority over any other lien created by the operation of law or otherwise that may be created subsequently.

Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, more than 20 colleges and universities and core research institutions.

Long Island's median household income is substantially above that of New York State and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $99,035 and $86,266, respectively, considerably higher than the $58,878 for New York State and the $54,562 for the US. According to the Authority, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 7 below shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 7
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	51.5%	52.8%	52.2%	52.4%	53.2%	53.2%	54.1%	53.8%	54.2%	54.4%	53.4%	54.4%
Commercial	46.6%	45.1%	45.7%	45.4%	44.5%	44.5%	43.8%	43.9%	43.7%	44.6%	44.0%	43.5%
Street Lighting	0.7%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.7%	0.7%	1.1%	0.7%
Other Public Authorities	1.1%	1.4%	1.3%	1.4%	1.5%	1.5%	1.3%	1.5%	1.4%	0.3%	1.5%	1.5%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

For the twelve months ending on June 30, 2016, the ten largest retail electric customers represented approximately 5.7% of the Authority's retail kilowatt-hour sales resulting in 4.8% of revenues. As of the closing date, no customer or group of related commercial is exempt from paying the restructuring charges. Exhibit 8 below shows the energy usage and revenue from the top 10 commercial customers.

Exhibit 8
Top 10 LIPA Commercial Customers

	Industry	Energy Usage (GWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	State Public Transportation	303.8	1.52%	$45,428,220	1.32%
2	Telecommunications	145.7	0.73%	$22,870,878	0.67%
3	Nas/Suf County Govt Twnsps	132.6	0.67%	$20,800,037	0.61%
4	Water Districts	122.7	0.62%	$20,598,940	0.60%
5	Health Services-Hospitals	120.0	0.60%	$17,580,632	0.51%
6	Retail Food	102.6	0.51%	$16,725,102	0.49%
7	Real Estate/Developers	66.9	0.34%	$5,284,931	0.15%
8	Nassau Universities	51.0	0.26%	$7,354,337	0.21%
9	Manufacturing	43.7	0.22%	$4,489,759	0.13%
10	Retail Non-Food	36.4	0.18%	$3,726,650	0.11%
	Total	**1,125**	**5.65%**	**164,859,486**	**4.81%**

Source: Utility Debt Securitization Authority

Remote Risk of Severe Ratepayer Base Declines

The Series 2016B bonds are exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's stable ratepayer base. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Customers that self-generate will only be responsible for paying restructuring charges based upon their net-billed consumption. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The restructuring charge will be recoverable from all customers taking T&D service. As of July 29, 2013, the securitization law defines the service area to include two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. Thus, the service area is fixed by the legislation. If the service area expands in the future, the new customers would be subject to the restructuring charge on a going-forward basis.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges. Moreover, municipalization would not affect restructuring charge collections since a successor and its customers will be subject to the restructuring charges, even if the T&D system assets are no longer owned by the Authority. Since 1998, no municipalizations have occurred in the service area.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact the Authority's operations, temporarily interrupting transmission, distribution and consumption of electricity, hence reducing the collections of restructuring charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the Authority's service area, which could cause the per-kWh restructuring charge to be greater than expected.

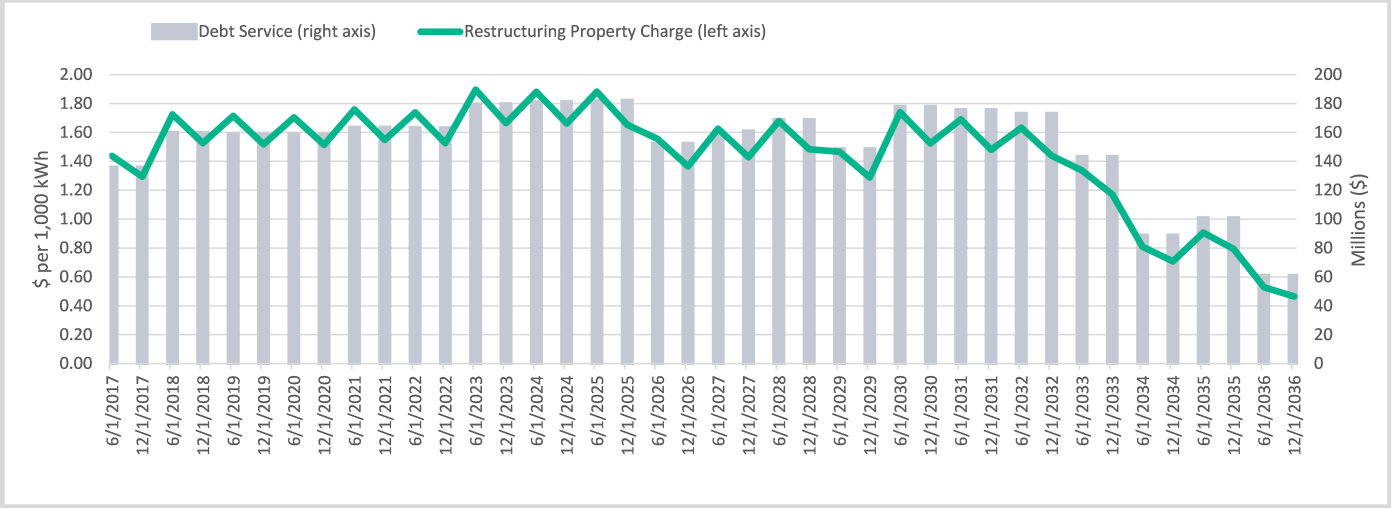
Forecasting Electricity Consumption

The Authority's internal company forecasts are used for projections of electricity price and weather conditions. The forecast incorporates customer usage, delinquencies and write-offs, among other inputs.

The Authority assesses the restructuring charges based on its forecasts of customer usage. The amount and the rate of restructuring charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs.

Exhibit 9 below shows the forecasted restructuring charge per 1,000 kWh and scheduled debt service payments.

Exhibit 9
Restructuring Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: Utility Debt Securitization Authority; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Additionally, there may be insufficient funds if the servicer inaccurately forecasts electricity consumption or uses inaccurate customer delinquency or charge-off data when setting or adjusting the 2016B restructuring charges. We view this risk as remote, as the maximum forecast variance since 2011 has been less than 6% per customer category, as shown in Exhibit 10.

Exhibit 10
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	4.31%	-2.37%	-2.69%	-4.28%	0.51%
Commercial	-1.00%	-3.59%	-2.39%	-1.70%	-2.07%
Street Lighting	0.17%	-2.19%	-4.44%	1.71%	-3.81%
Other Government	5.49%	-13.64%	-4.20%	3.13%	2.49%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm that the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the restructuring charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the restructuring charge, both in absolute terms and as a percentage of the customer's energy bill. In our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the restructuring charge is as high as 22.74%, higher than most other utility cost recovery charge securitizations. This concern is mitigated by the Authority's securitization offset rider, which reduces the delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

The Authority expects the combined initial restructuring charge for the 2013, 2015, 2016A and 2016B transactions to be around 7.8% of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 15, 2017, which is higher than most other utility cost recovery charge securitizations we rate. The 7.8% is preliminary and subject to change based on market conditions.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the Authority's projections
2. Implied net charge-offs of 0.62%
3. Collection curve projects 20.0% of collections within 30 days and 80.0% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains LIPA or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case

4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year

5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case

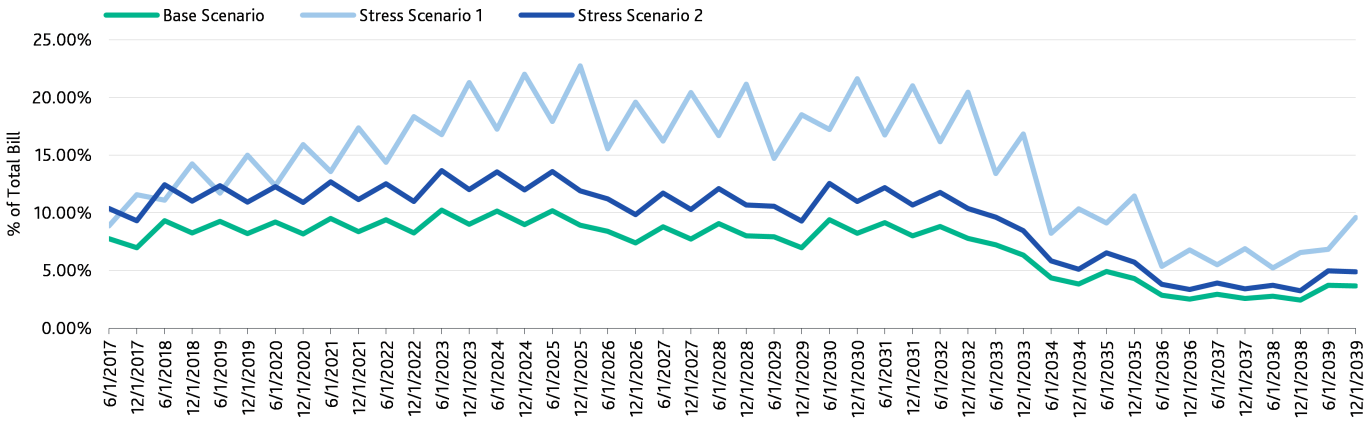
3. Collection curve is the same as in base case

4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 11 shows the projected restructuring charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 12 shows the projected restructuring charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 11

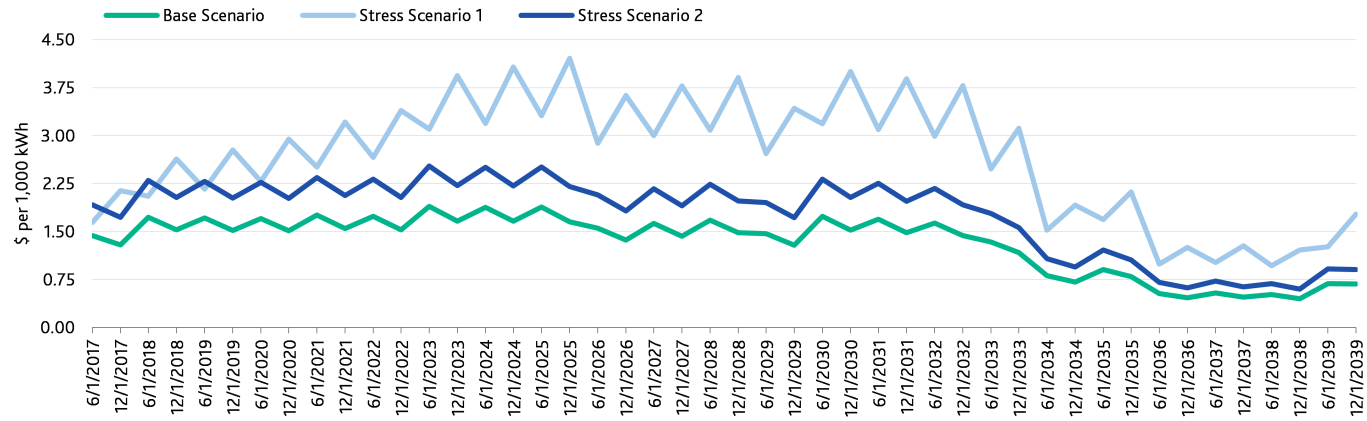
Projected Restructuring Charge as a Percentage of a Customer's Total Bill



Source: Utility Debt Securitization Authority; Moody's calculations

Exhibit 12

Projected Restructuring Charge ($ per 1,000 kWh)



Source: Utility Debt Securitization Authority; Moody's calculations

Comparables

As shown in Exhibit 13, stress scenario 1 is more stressful and results in a peak restructuring charge equal to about 22.74% of a 1,000 kWh per month customer's bill. This is high compared to other utility cost recovery deals.

Exhibit 13

Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
UDSA 2016B	10.25%	22.74%	13.66%
UDSA 2016A	7.21%	16.04%	10.40%
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

On the closing date, the Authority will sell the restructuring property to the issuer pursuant to a sale agreement between the issuer and the Authority. LIPA will be the servicer of the restructuring property. PSEG-LI will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others.

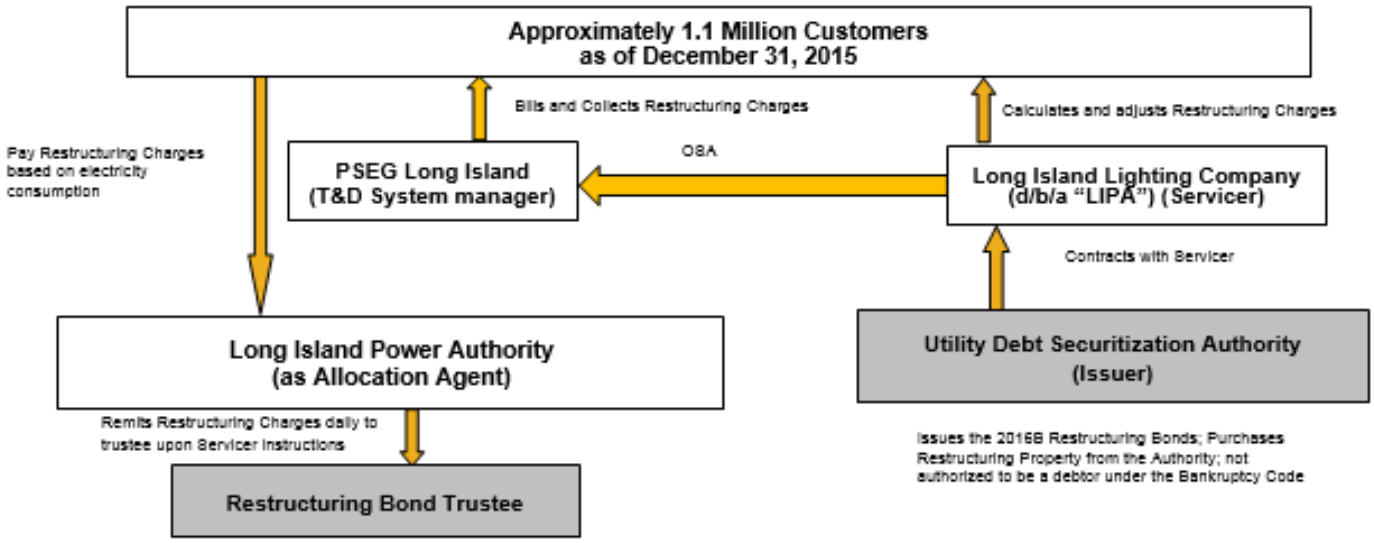
Securitization Structure Description

Structural Diagram

Exhibit 14 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 14

Structural Diagram



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

1. The issuer purchases the restructuring property from the Authority and issues the Series 2016B bonds
2. The issuer contracts with LIPA as servicer to calculate and adjust the restructuring charges
3. LIPA contracts with PSEG-LI to bill and collect the restructuring charges

4. Electric utility customers pay restructuring charge on electricity bills based on electricity consumption
5. The Authority, as allocation agent, remits the restructuring charges to the trustee on a daily basis

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the debt service reserve account. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Operating Reserve Account

On or before the date of issuance of the bonds, the Authority will deliver to the trustee for deposit into the operating reserve account an amount not less than 0.50% of the initial aggregate principal amount of the Series 2016B bonds. Amounts may be withdrawn from the account to pay scheduled principal on the Series 2016B bonds, provided however that an amount not less than 0.50% remains on deposit in the account.

Debt Service Reserve Account

On or before the date of issuance of the bonds, the issuer will make a capital contribution to the trustee in an amount not less than 1.5% of the aggregate outstanding principal amount of the bonds, which will be deposited in the debt service reserve account. Under the financing order, any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the subaccount and applied to subsequent payments.

Cash Commingling

The servicer is entitled to commingle the restructuring charges that it receives with its own funds until it remits the funds to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from restructuring charges with other funds.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the allocation account within two business days. Any discrepancy between estimated and actual collections is mitigated by the true-up mechanism, which allows the Authority to adjust the restructuring charges at any time as needed to make timely interest and principal payments on the bonds.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other operating expenses to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;
6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;

7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

LIPA will calculate the annual true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment. Should LIPA perform a mid-year true-up adjustment, LIPA will similarly calculate the mid-year true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next mid-year true-up adjustment.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period);
5. commencement of an involuntary bankruptcy or similar proceeding against the issuer which remains in effect for 90 days;
6. commencement of a voluntary bankruptcy or similar proceeding by the issuer; or
7. an action violating the financing order or state pledge.

Issuance of Additional Bonds

The issuer can issue up to $4.5 billion in restructuring bonds over four distinct financing orders. To the extent the amount authorized is not issued under this fourth and final financing order, additional financings may be authorized by new financing orders to be adopted at a later date. Each series of restructuring bonds that may be issued will be backed by separate restructuring property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of restructuring bonds. However, the issuer may not issue additional restructuring bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of restructuring property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the restructuring property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under Chapter 9 or any other provision of the Bankruptcy Code.

The issuer was formed solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.

The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from the Authority and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.

Sponsor and Seller

The Long Island Power Authority will be the securitization's sponsor and the seller of the restructuring property. The Authority is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a Chapter 9 debtor pursuant to its enabling legislation.

The Authority took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of the Authority through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

The Authority is governed by a Board of Trustees and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. The Authority is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

The Authority and LIPA are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LIPA conducts the electric business in the service area and is responsible for providing service to customers in the service area. The Authority and LIPA are also parties to an administrative services agreement pursuant to which the Authority provides personnel, personnel-related services and other services necessary for LIPA to provide electric service in the service area.

Administrator

LIPA will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. LIPA, as administrator, will be entitled to receive an annual administration fee of $100,000 payable annually, in arrears.

Securitization Structure Analysis

The key structural feature of this transaction is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage.

In this transaction, the strong true-up mechanism combined with nonbypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds. The operating reserve and debt service accounts provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of LIPA (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

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REPORT NUMBER 1033393

MOODY'S
INVESTORS SERVICE

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CREDIT OPINION
16 June 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Duke Energy Florida Project Finance, LLC Series A Bonds

First Duke Energy Florida-Sponsored Utility Cost Recovery Bond

Capital Structure

Exhibit 1
Provisional (P) Ratings

Series	Provisional Rating	Expected Amount	Coupon	Legal Final Maturity Date
Series A 2018	(P)Aaa (sf)	$183,000,000	Fixed	3/1/2022
Series A 2021	(P)Aaa (sf)	$150,000,000	Fixed	9/1/2024
Series A 2026	(P)Aaa (sf)	$436,000,000	Fixed	9/1/2031
Series A 2032	(P)Aaa (sf)	$250,000,000	Fixed	3/1/2035
Series A 2035	(P)Aaa (sf)	$275,290,000	Fixed	9/1/2038
Total		$1,294,290,000		

The ratings address the expected loss posed to investors by the legal final maturity. In Moody's opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.
Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Summary Rating Rationale

We have assigned provisional ratings to the five classes of bonds (Series A bonds, or the bonds) that Duke Energy Florida Project Finance, LLC (the issuer) will issue. The issuer is wholly-owned by Duke Energy Florida, LLC (DEF; A3 Stable), a subsidiary of Duke Energy Corporation (Baa1 negative), one of the largest utility holding companies in the US. DEF formed the issuer to securitize a special charge on DEF customers' utility bills. The charge is imposed to recover certain costs associated with DEF's retirement of its Crystal River Unit 3 (CR3) nuclear power plant, including certain capitalized costs of the retired nuclear generating asset and ancillary costs and fees, as well as financing costs associated with this issuance. The Series A bonds will be the first utility cost recovery bonds sponsored by DEF.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 15 June 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

As a regulated utility, DEF is typically entitled to recover specified costs of acquiring, constructing and improving energy generating assets which are generally capitalized and recovered over the useful life of that asset. The Florida Public Service Commission (FPSC) has authorized DEF to recover a specified portion of DEF's remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the CR3 nuclear plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges (nuclear asset-recovery property) is the primary collateral backing the Series A bonds.

Our provisional ratings reflect our assessment of the legal and structural aspects of the transaction including the State of Florida's legislation, financing order and state pledge, the mandatory uncapped true-up mechanism, the relatively low level of the recovery charge as compared to prior rated utility cost recovery transactions, the large and diversified ratepayer base, and the credit quality of the servicer.

Credit Strengths

Strength of Legislation and Financing Order: The State of Florida's legislation (Section 366.95, Florida Statutes, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on December 19, 2015 permits the securitization and strongly protects the nuclear asset-recovery property securing the bonds. Similar to other utility cost recovery securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of Florida pledges to bondholders that it will not (1) alter provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of the nuclear asset-recovery property, or (3) except as authorized by the true-up adjustment mechanism, reduce, alter or impair nuclear asset-recovery charges until the bonds have been repaid in full (the state pledge). In addition, the securitization law and financing order contain the typical strong true-sale and security interest provisions.

FPSC's irrevocable financing order authorizes DEF to recover specified costs of retiring the CR3 nuclear plant by collecting nuclear asset-recovery charges. This nuclear asset-recovery property grants the issuer the right to impose, bill and collect, nonbypassable nuclear asset-recovery charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. In this context, nonbypassable refers to the requirement that the charges be levied on all of DEF's existing and future retail electric customers receiving transmission and distribution services in DEF's service area, including customers of any DEF successor or assignee, and even if a customer elects to purchase electricity from an alternative electric supplier following a deregulation of public utilities in Florida.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts nuclear-asset recovery charges semiannually (and quarterly after the last scheduled maturity date of the bonds of any series) to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time if the servicer deems necessary to ensure timely bond payments.

Relatively Low Recovery Charge: DEF expects the securitization's initial nuclear asset-recovery charge to represent around 2.5% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in DEF's service area will receive as of April 2016; this percentage charge is relatively low compared to charges in other utility cost recovery transactions. For context, the three most recent utility cost recovery bond issuances we rated, Utility Debt Securitization Authority, sponsored by LIPA, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 6.9%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in DEF's service area is a credit strength. The service area includes the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas. The service area primarily

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

includes a mix of residential customers (59% by revenue) and commercial customers (28% by revenue). Unlike most other utility cost recovery securitizations, the service area includes very few industrial customers (6% by revenue), which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Strength and Experience of the Servicer: We rate DEF A3 with a stable outlook. DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

Credit Challenges

Challenges to Securitization Law and Financing Order: Potential state and federal legislative and regulatory actions could weaken the legal protections of the nuclear asset-recovery property; however we view this risk as remote. Florida does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for FPSC to amend or revoke the financing order, would be through an amendment to the state constitution or a legislative action, either of which would violate the state pledge. The risk that the State of Florida would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

The people of the State of Florida have the right to amend the Florida Constitution through initiative powers. It is possible that the people of Florida, using their initiative powers, might amend or repeal the Florida Constitution in a manner affecting the securitization law. The process to propose a revision or amendment to the Florida Constitution by initiative is extremely burdensome. DEF is currently unaware of any efforts to amend the Florida Constitution in a manner which would affect the securitization law in any way.

On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (Section 366.93, Florida Statutes) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

We view the risk to bondholders from this litigation as remote. Several past challenges to securitization laws such as this have been unsuccessful, and even in the low likelihood event that this challenge is successful, the arguments put forward by the plaintiffs are generally not relevant to the securitization law.

Potential for Insufficient Collections: Collections arising from the nuclear asset-recovery property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. DEF's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur semiannually and on an interim basis as needed.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Nuclear asset-recovery property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from DEF or its successors or assignees
Service Area:	DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Series A Senior Secured Bonds
Amount:	$1,294,290,000
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Capital Subaccount
Transaction Parties	
Sponsor/Depositor/Servicer:	Duke Energy Florida, LLC
Issuer:	Duke Energy Florida Project Finance, LLC
FPSC Financial Advisor:	Saber Partners, LLC
Trustee:	The Bank of New York Mellon Trust Company, National Association

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Assets Overview

In February 2013, DEF announced it would close and decommission the CR3 nuclear power plant. The FPSC has authorized DEF to recover a portion of its remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges is the primary collateral (nuclear asset-recovery property) backing the Series A bonds.

The bonds are also secured by funds on deposit in the collection account, including the general subaccount, the capital subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds in respect to the pledged collateral.

Assets Description

The Securitization Law

In 2015, the Florida legislature enacted the securitization law, codified as Section 366.95, Florida Statutes. The securitization law allows electric utilities to access lower-cost funds through nuclear asset-recovery bonds pursuant to financing orders issued by the FPSC. One purpose of the securitization law is to lower the cost to customers associated with the long-term financing of costs incurred in connection with the early retirement or abandonment of a nuclear generating asset unit. The early retirement or abandonment must be deemed reasonable and prudent by the FPSC through a final order approving a settlement or other final order issued by the FPSC before July 1, 2017, and the pretax costs to be financed must exceed $750 million.

The securitization law permits DEF to impose irrevocable, binding, nonbypassable nuclear asset-recovery charges on all future and existing customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts sufficient to pay principal of and interest on the bonds and other administrative expenses of the offering. The FPSC governs the amount and terms for collections of these nuclear asset-recovery charges through one or more financing orders issued to DEF. Upon the issuance of the bonds these nuclear asset-recovery charges may not be reduced, impaired, postponed, terminated or otherwise adjusted by the FPSC except as adjusted pursuant to the true-up mechanism.

Florida and other states have passed legislation similar to the securitization law to authorize recoveries by utilities of specified costs, such as hurricane recovery costs, environmental control costs, or costs associated with deregulation of the electricity market, and some of those laws have been challenged by judicial actions or utility commission proceedings. To date, none of those challenges has succeeded.

The securitization law provides that a valid and enforceable security interest in nuclear asset-recovery property will attach only upon the later of: the issuance of a financing order, the execution and delivery of a security agreement with the indenture trustee in connection with issuance of a series of bonds, and the receipt of value for such bonds. Although not governed by the UCC, upon filing notice with the Florida UCC registry the lien and security interest will be continuously perfected. The security interest will have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor. No continuation statements are necessary to maintain such perfection. The servicer pledges in the servicing agreement to file in the Florida UCC registry on or before the closing date and the seller will represent that no prior filing has been made.

The Financing Order

The FPSC issued an irrevocable financing order to DEF on November 19, 2015. That financing order became final and non-appealable on December 19, 2015. Pursuant to the financing order, DEF established the issuer to be a bankruptcy-remote special purpose subsidiary to issue the nuclear asset-recovery bonds. In the financing order, the FPSC authorized the imposition and collection of nuclear asset-recovery charges on all DEF transmission and distribution customers. DEF, as initial servicer, will collect nuclear asset-recovery charges on the issuer's behalf and will remit the nuclear asset-recovery charges to the indenture trustee.

The FPSC expects the financing order to result in a substantial cost savings to ratepayers of $708 million or $1.95 per month for 1,000 kWh, versus the traditional method of cost recovery under current and expected market conditions. The financing order has been praised publicly by regulators and consumer advocacy groups, further insulating the financing order from challenge.

The State Pledge

The securitization law includes a pledge from the State of Florida to the bondholders that it will not (1) alter the provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of nuclear asset-recovery property; or (3) except as authorized by the true-up adjustment mechanism, reduce, alter, or impair the nuclear asset-recovery charges until the bonds have been repaid in full.

Any action of the Florida legislature adversely affecting the nuclear asset-recovery charges or the ability to charge or collect the charges would likely require the State of Florida to pay just compensation under the "takings clause" of the US and Florida Constitutions. The seller agrees that it will institute any action or proceeding necessary to compel performance by the FPSC, the State of Florida or any of their respective agents of any of their obligations or duties under the securitization law or any financing order.

The Nuclear Asset-Recovery Charges

The nuclear asset-recovery charges are nonbypassable, consumption-based charges separate and apart from DEF's base rates; the nuclear asset-recovery charges are to be paid by all existing and future customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts. Such customers must pay nuclear asset-recovery charges even if DEF goes out of business and its transmission and distribution services are taken over by another utility or if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in Florida. No customer receiving transmission or distribution service from DEF can avoid the charge. The only way to avoid the charge is to disconnect from DEF's electric grid.

The nuclear asset-recovery charges are permitted to continue for 276 months from issuance, or until the bonds are paid in full. The expected scheduled final payment date for the Series A 2033 bonds is 240 months from issuance, providing up to an additional 36 months of nuclear asset-recovery charges if necessary to pay the bonds.

The Nuclear Asset-Recovery Costs

The nuclear asset-recovery charges authorized by the financing order allow DEF to recover nuclear asset-recovery costs related to retiring the CR3 nuclear plant located in Citrus County, Florida. CR3 was originally placed in service in 1977. In February 2013, DEF announced the early retirement of the project. DEF's unrecovered net investment in the project was approximately $1.6 billion. In October 2013, the FPSC approved a settlement agreement whereby DEF agreed to write-off approximately $300 million of its unrecovered net investment in CR3. The settlement agreement allowed DEF to recover its remaining unrecovered net investment in the project of approximately $1.3 billion over a 240 month period beginning no later than the first billing period of January 2017.

The nuclear asset-recovery costs financed by the bonds are equal to (i) the balance of the CR3 regulatory asset as of December 31, 2015 as allowed under the financing order minus (ii) $35,894,547, which, pursuant to the FPSC's Final Order PSC-16-0138-FOF-EI issued on April 5, 2016, shall not be included as part of the CR3 regulatory asset, plus (iii) carrying charges accruing at 6.0% per annum on the balance of the CR3 regulatory asset (adjusted as described in (ii) above) from December 31, 2015 through June 21, 2016.

Excluded from the amount being financed is $35,894,547 of costs claimed pursuant to Section 366.93, Florida Statutes. On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (366.93) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

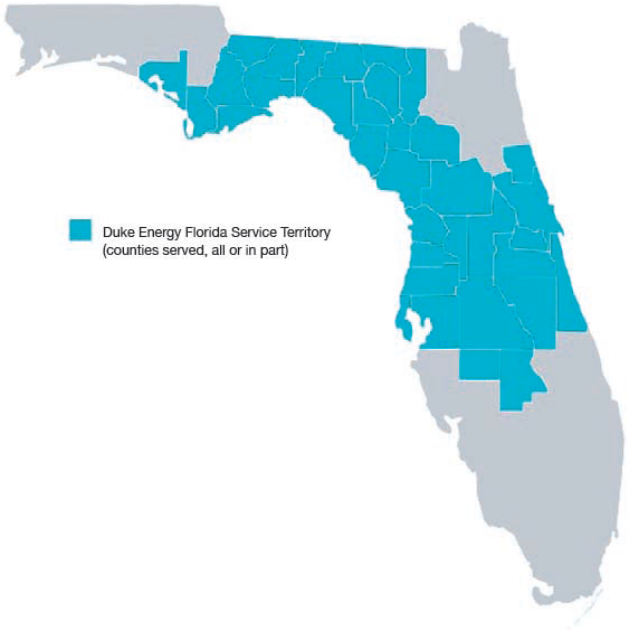
The suit claims DEF unlawfully charged customer higher rates to cover more than $1.2 billion in expenses at its Crystal River nuclear power plant and at its proposed (and now shelved) Levy County nuclear plant site. In addition to the suit seeking relief for nuclear recovery costs, it also seeks to nullify as unconstitutional the nuclear cost recovery system and all nuclear cost recovery orders issued by the FPSC, and it seeks an order enjoining defendants from further unlawful charges. The likelihood of the lawsuit prevailing is low considering other lawsuits challenging the constitutionality of Florida's nuclear cost recovery statute have been found to be without merit and rejected by Florida courts.

The Service Area

DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers. During the twelve

months ended December 31, 2015, DEF billed approximately 38.6 billion kilowatt hours of electricity to its covered electric customers in Florida, resulting in revenues of approximately $4.4 billion. Exhibit 4 below shows a map of DEF's service area.

Exhibit 4
Duke Energy Florida Service Area



Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Statutory Uncapped True-Up Adjustment Mechanism

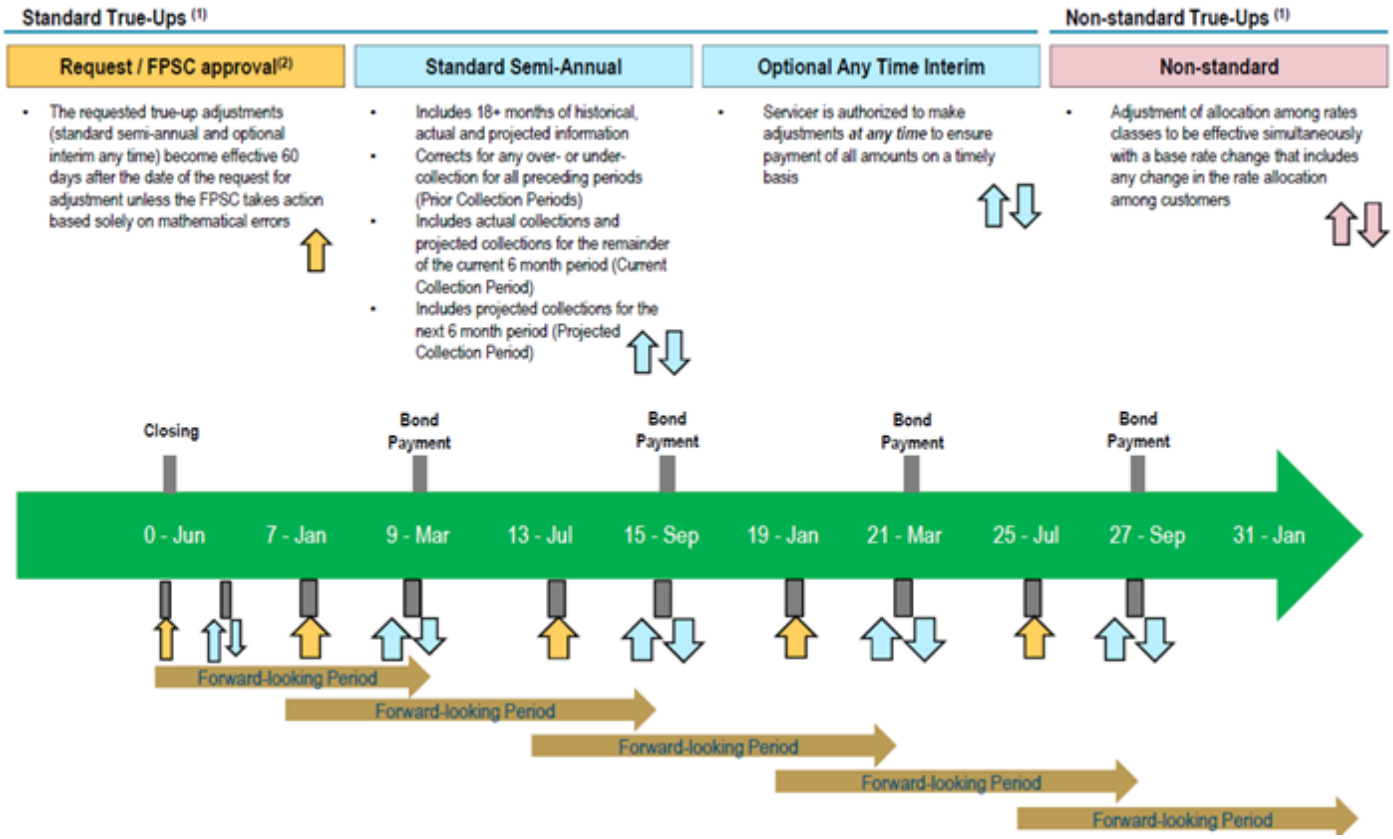
The securitization law and the financing order require that the issuer or DEF file with the FPSC at least semi-annually (and quarterly after the scheduled final payment date for the latest maturing bond) a letter applying the true-up mechanism to correct for any overcollection or undercollection of the nuclear asset-recovery charges and make any adjustments to ensure the recovery of revenues sufficient to provide for the timely payment of scheduled principal and interest on the bonds and other required amounts and charges. The FPSC's review of any adjustment request is limited solely to determining whether there is any mathematical error in the application of the formula-based mechanism.

Under the servicing agreement, the servicer will make adjustments to the nuclear asset-recovery charges at least semi-annually. In addition to the semi-annual true-up adjustment, the servicer is authorized to make interim adjustments at any time for any reason to ensure the timely payment on the bonds. In addition, the servicer will make a non-standard true-up adjustment to be effective simultaneously with a base rate change that includes any change in the rate allocation among customers used to determine the nuclear asset-recovery charges. Exhibit 5 below illustrates the true-up mechanism.

Under the irrevocable financing order, the FPSC guarantees it will act, as directed by the securitization law, to implement the true-up mechanism for making any adjustments that are necessary to correct for any overcollection or undercollection of the nuclear asset-recovery charges or to otherwise ensure the timely payment of principal of and interest on the bonds when due.

Exhibit 5

True-Up Mechanism



Source: DEF

Servicing

DEF will be the initial servicer of the bonds. DEF, as servicer, will be responsible for, among other things, calculating, billing, collecting and posting the nuclear asset-recovery charges from customers, submitting requests to the FPSC to adjust these charges, monitoring the collateral for the bonds and taking certain actions in the event of non-payment by a customer. The indenture trustee's receipt of collections in respect of the nuclear asset-recovery charges, which will be used to make payments on bonds, will depend in part on the skill and diligence of the servicer in performing these functions.

DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

DEF will be entitled to receive an annual servicing fee in an amount equal to 0.05% of the aggregate initial principal amount of the bonds. This servicing fee will be payable in equal installments on each semi-annual payment date, in arrears. If DEF or any of its affiliates is not the servicer, the successor servicing fee may be up to 0.60% of the initial principal amount of the bonds unless a higher fee is approved by the FPSC.

In the event of a servicer default, the indenture trustee, at the direction of a majority of bondholders or at the direction of the FPSC, may terminate the rights and obligations of the servicer under the servicing agreement. However, replacement of the servicer would require the agreement of the indenture trustee and the administrative agents under DEF's accounts receivable sale programs.

Credit, Billing and Budget Billing

DEF is required to provide transmission and distribution service to all qualified customers. First time customers establishing residential electric accounts are generally required to pay a deposit as are customers that do not satisfy threshold credit score requirements.

The amount of the deposit reflects the estimated use over a two-month period, which is the maximum DEF may collect by law. As a general rule, non-residential accounts require deposit coverage. Consumer credit is not used to determine credit worthiness on non-residential accounts.

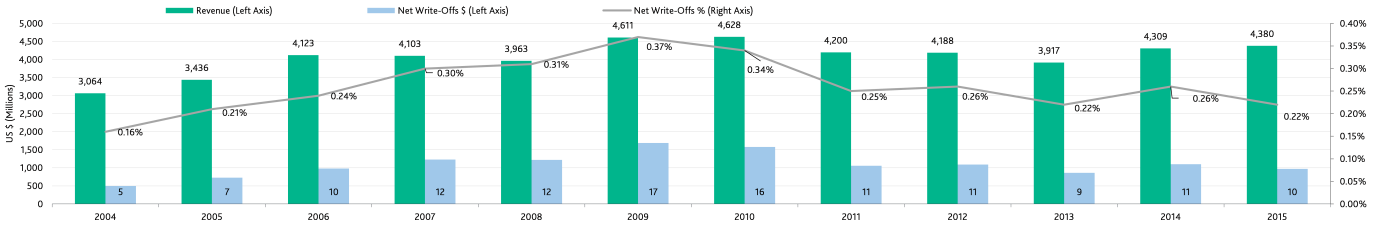
DEF bills its customers once every 24 to 39 days and distributes approximately 85,000 bills on each business day to its customers. Approximately 6% of DEF's residential customers choose to be billed using DEF's budget billing program. For these customers, DEF determines and bills a monthly budget based on the last twelve months of billing history for each account. Budget billing does not affect the amount of nuclear asset-recovery charges that the servicer remits to the indenture trustee on a daily basis.

Bills are due 21 calendar days after the issue date at which time they are considered delinquent. For the year ended December 31, 2015, approximately 6% of total billed retail revenue became eligible for disconnect and 1% was disconnected. Approximately 87% of accounts disconnected for nonpayment ultimately make full payment and have service restored. Unpaid final bills are written off approximately 30 days after the final bill is issued.

Exhibit 6 below shows net write-offs since 2004, which have ranged from a low of 16bps of billed revenue in 2004 to a crisis period peak of 37bps in 2009. DEF's forecast is 26 bps, consistent with the post-crisis performance history.

Exhibit 6

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: DEF

While more than 7.5% of customers are typically 30-59 days past due, by the third month most delinquencies are cured, with those still outstanding past 90 days well under 1% throughout the observation period. Exhibit 7 shows DEF customer delinquency data since 2005.

Exhibit 7

Delinquencies as a Percentage of Total Billed Revenues

	As of 2005	As of 2006	As of 2007	As of 2008	As of 2009	As of 2010	As of 2011	As of 2012	As of 2013	As of 2014	As of 2015
30-59 days	8.27%	8.51%	9.66%	8.41%	9.38%	7.82%	7.79%	7.59%	7.48%	7.79%	7.73%
60-89 days	0.92%	0.87%	1.12%	1.07%	0.78%	0.59%	0.57%	0.54%	0.59%	0.64%	0.57%
90+ days	0.52%	0.56%	0.90%	0.66%	0.51%	0.33%	0.22%	0.21%	0.28%	0.33%	0.33%
Total	9.71%	9.94%	11.68%	10.14%	10.67%	8.75%	8.58%	8.34%	8.35%	8.76%	8.63%

Source: DEF

Assets Analysis

Strong Service Area

This transaction benefits from the size and diversity of the ratepayer base within DEF's service area and the projected population growth and economic stability of the ratepayer base. During 2015, approximately 9% of DEF's total retail billed electric consumption was by industrial customers, approximately 31% was by commercial customers and approximately 52% was by residential customers, with other entities comprising approximately 8%. Exhibit 8 shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 8
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	57.91%	57.70%	56.85%	57.21%	56.94%	57.34%	59.72%	58.18%	56.96%	58.49%	58.85%	59.43%
Commercial	27.66%	27.57%	27.89%	28.06%	28.39%	28.46%	27.01%	28.10%	28.85%	28.11%	27.81%	27.51%
Industrial	7.65%	7.73%	7.98%	7.34%	7.31%	6.70%	6.14%	6.40%	6.53%	6.12%	6.10%	5.91%
Streetlighting	0.05%	0.05%	0.05%	0.05%	0.05%	0.05%	0.04%	0.04%	0.05%	0.04%	0.04%	0.04%
Public Authority	6.73%	6.95%	7.22%	7.34%	7.31%	7.44%	7.09%	7.28%	7.61%	7.24%	7.20%	7.11%

Source: DEF

For the year ended December 31, 2015, the ten largest retail electric customers represented approximately 8.3% of DEF's retail kilowatt-hour sales. There are no material concentrations in the residential class. As of the closing date, no customer or group of related commercial or industrial customers will be obligated to pay more than 10% of the nuclear asset-recovery charges.

Exhibit 9
Top 10 DEF Customers

	Industry	Energy Usage (MWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	Mining/Chemical Processing	691,591	1.79%	$46,289	1.06%
2	Education	456,852	1.18%	$37,972	0.87%
3	Retail Grocery	393,738	1.02%	$35,619	0.81%
4	Mining/Chemical Processing	340,470	0.88%	$23,343	0.53%
5	Education	252,072	0.65%	$27,720	0.63%
6	Retail Trade	250,016	0.65%	$24,409	0.56%
7	Stone/Clay/Glass	236,193	0.61%	$15,771	0.36%
8	Education	201,586	0.52%	$23,188	0.53%
9	Retail Grocery	199,997	0.52%	$19,744	0.45%
10	Government	175,246	0.45%	$16,124	0.37%
	Total	3,197,761	8.29%	$270,179	6.17%

Source: DEF

Remote Risk of Severe Ratepayer Base Declines

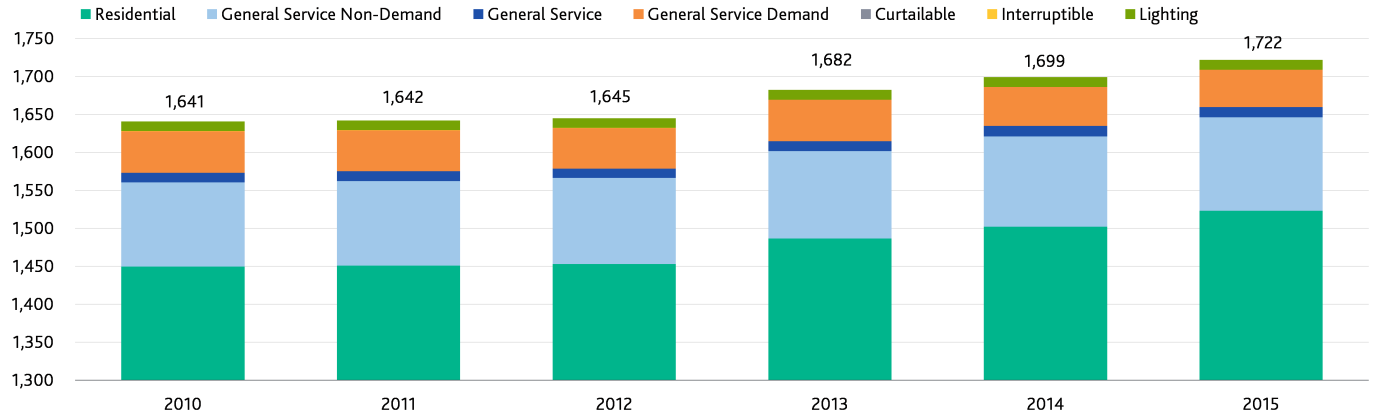
The ratepayer base is sensitive to many macroeconomic factors, including service area population and household formation growth, expected disconnects due to use of self-generation, changes in the service area and potential municipalizations. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Population Growth

Florida's robust population trend is a benefit to the transaction. According to the Census Bureau, the state's population grew an average of 1,000 residents per day in 2015. This 1.8% increase was the largest since 2006 and the strongest in the South. Despite the rapid rise, population growth will likely accelerate further because the pace remains historically weak. In the 50 years before the Great Recession, annual population growth in the state exceeded last year's pace by 47 times. Florida should also expect faster expansion because its cities appeal to Hispanics—the nation's fastest growing ethnic group—and retiring baby boomers— the fastest-growing age

group in the U.S. In 2015, for the third consecutive year, The Villages, Central Florida's retiree haven, was the nation's fastest growing metro area in population. Exhibit 10 shows that growth in the average number of DEF retail electric customers since 2010.

Exhibit 10
Average Number of Retail Electric Customers



Source: DEF

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of nuclear asset-recovery charges on other non-self-generating ratepayers. Based on existing legislation precluding the use of third-party owned solar equipment, DEF expects the estimated cost of self-generation for customers, combined with the practical obstacles to installing on-site generation, to limit self-generation from being installed by any meaningful number of customers within the service area. DEF forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The nuclear asset-recovery charge will be recoverable from all DEF customers taking transmission or distribution service from DEF. Thus, if the service area expands in the future, the new DEF customers would be subject to the nuclear asset-recovery charge on a going-forward basis. Pursuant to the financing order, any successor to DEF is required to perform all obligations and have the same rights under the financing order as DEF, including the collection of the nuclear asset-recovery charges from customers and payment of appropriate amounts to the issuer.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges and the likelihood that even after a municipalization, DEF's transmission and distribution services will continue to be used. While multiple municipal utilities exist in Florida, DEF is unaware of any municipality that has municipalized, or attempted to municipalize, a portion of an investor-owned utility's service territory in the absence of an agreement. One municipality, the City of Winter Park, was municipalized pursuant to such an agreement. DEF previously had a franchise agreement that provided Winter Park with a unilateral purchase option at the expiration of the franchise agreement. In the instance of the Winter Park municipalization, DEF sought affirmative permission from the FPSC to be relieved of its obligation to serve the City of Winter Park, which the FPSC subsequently approved. Any municipality using DEF's transmission and distribution system following a municipalization will be considered a successor and its customers will be subject to the nuclear asset-recovery charge.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact DEF's operations, temporarily interrupting transmission, distribution and consumption of

electricity, hence reducing the collections of nuclear asset-recovery charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the DEF service area, which could cause the per-kWh nuclear asset-recovery charge to be greater than expected.

The only year with any significant loss of energy consumption due to natural disasters was 2004, when a series of three Hurricanes struck the DEF service area. The impacts came from "Charley" (Aug 13-20), "Frances" (Sep 4-10) and "Jeanne" (Sep 25-30). Estimated lost energy sales came from studying reduced levels of daily system requirements totaling 400,000 MWh over these three disasters. This represents about 1% of the total annual electric usage for 2004 (38,193 GWh).

Forecasting Electricity Consumption

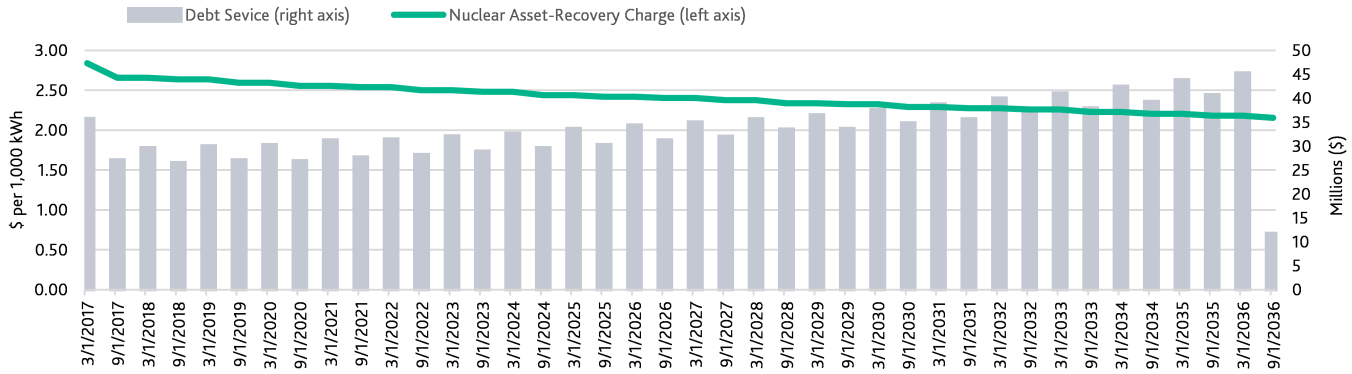
The nuclear asset-recovery charges are assessed based on forecasted customer usage. The amount and the rate of nuclear asset-recovery charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs. If the servicer inaccurately forecasts electricity consumption or underestimates customer delinquency or write-offs when setting or adjusting the nuclear asset-recovery charges, there could be a shortfall or material delay in nuclear asset-recovery charge collections prior to the next true-up.

The forecast utilized in the proposed bond structure is the 2016 Ten Year Site Plan filed with the FPSC in April 2016. Internal forecasts are updated at least twice per year but are not filed with the FPSC. The DEF forecast of customers, energy sales, and peak demand applies both an econometric and end-use methodology. External sources of data include economic series from Moody's Analytics and State population data from the University of Florida's Bureau of Economic & Business Research. Internal company forecasts are used for projections of electricity price, and weather conditions. The forecast incorporates population and household trends, employment and production trends, technology and energy efficiency trends, and weather and climate trends. DEF has a more granular forecast for the phosphate industry, at the customer level, due to the high concentration of customers in this industry among DEF's industrial customer base.

Exhibit 11 shows the forecasted nuclear asset-recovery charge per 1,000 kWh and scheduled debt service payments.

Exhibit 11

Nuclear Asset-Recovery Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: DEF; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Without an interim true-up adjustment, greater than 60% forecast variance would be needed leading up to any payment date to cause a payment default. Greater than 65% forecast variance would be needed in the first payment period to cause a payment default, assuming the servicer makes an interim true-up adjustment midway into the first payment period. By contrast the maximum forecast variance since 2011 has been less than 6%, as shown in Exhibit 12.

Exhibit 12
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	0.27%	-0.23%	-0.08%	2.14%	1.92%
Commercial	2.00%	0.82%	0.80%	1.40%	0.44%
Industrial	-3.09%	1.56%	-1.88%	3.87%	-3.25%
Public Authority	-2.40%	5.92%	0.50%	1.00%	-0.65%

Source: DEF

Cash Flow Analysis

We examined the cash flows that the nuclear asset-recovery charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the nuclear asset-recovery charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the nuclear asset-recovery charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the nuclear asset-recovery charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the nuclear asset-recovery charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the nuclear asset-recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Even in our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the nuclear asser-recovery charge is less than 7%.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the projections by DEF, which increases annually by a compounded 1 - 1.5%, through bond maturity
2. Implied net charge-offs of 0.2615%
3. Collection Curve projects 13.3% of collections within 30 days and 86.4% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains DEF or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case
4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year
5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

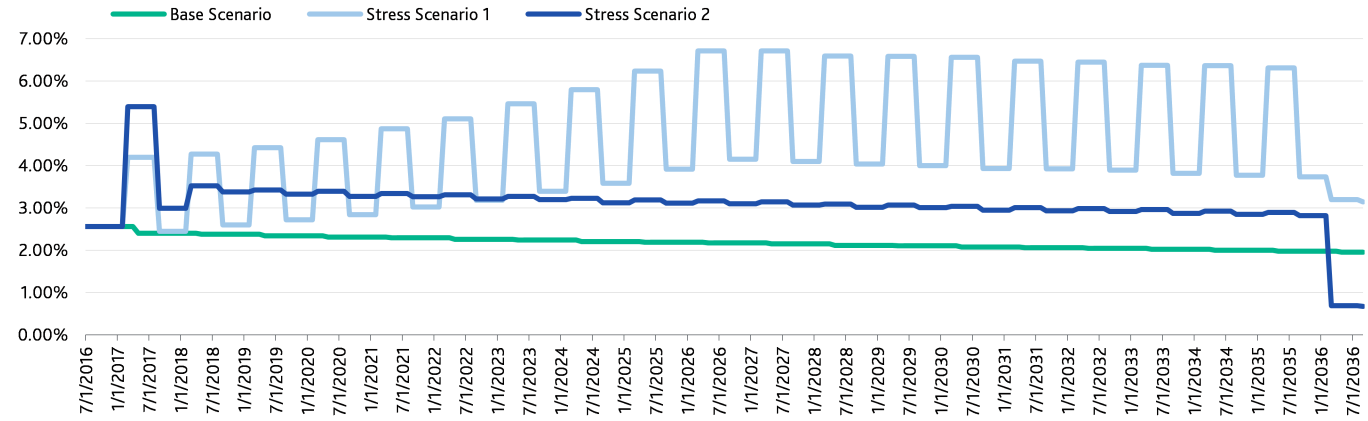
1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case
3. Collection curve is the same as in base case
4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 13 shows the projected nuclear asset-recovery charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 14 shows the projected nuclear asset-recovery charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 13

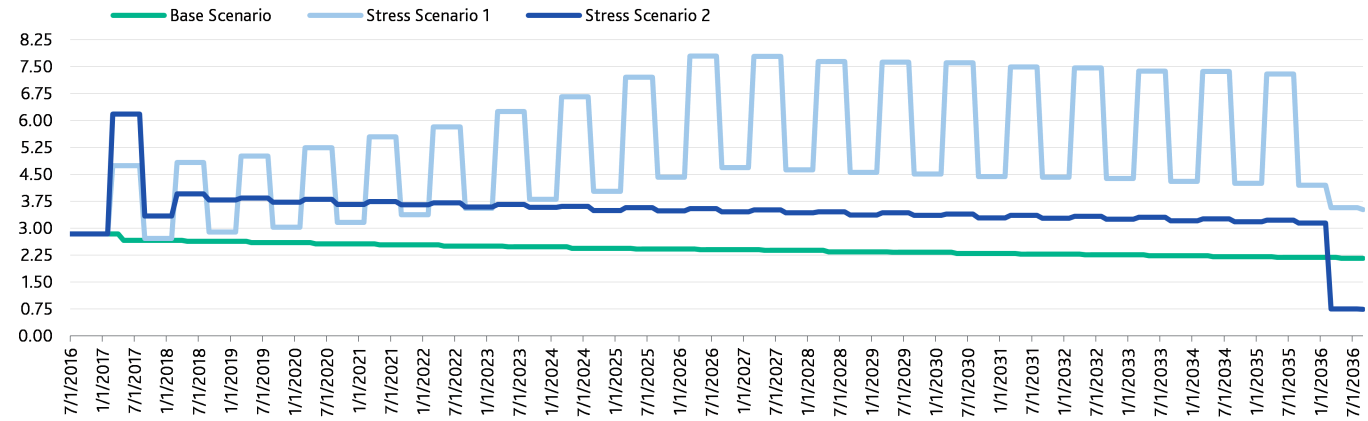
Nuclear Asset-Recovery Charge as a Percentage of a 1,000 kWh Customer's Total Bill



Source: DEF; Moody's calculations

Exhibit 14

Nuclear Asset-Recovery Charge ($ per 1,000 kWh)



Source: DEF; Moody's calculations

Comparables

As shown in Exhibit 15, stress scenario 1 is more stressful and results in a peak nuclear asset-recovery charge equal to about 6.94% of a 1,000 kWh per month customer's bill. This is low compared to other utility cost recovery deals.

Exhibit 15
Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2016A	7.21%	16.04%	10.40%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

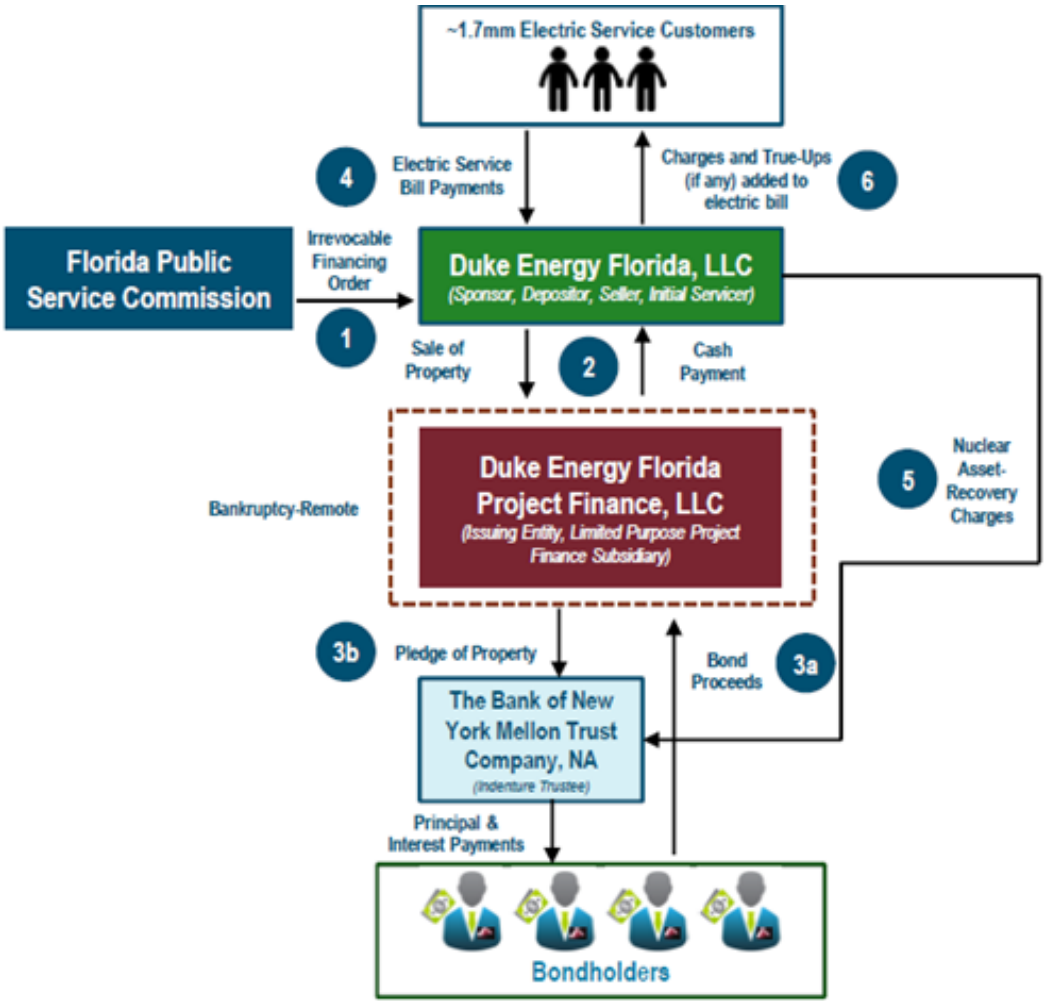
On the closing date, DEF will sell the nuclear asset-recovery property to the issuer pursuant to a sale agreement between the issuer and DEF. DEF will service the nuclear asset-recovery property pursuant to a servicing agreement between the issuer and DEF.

Securitization Structure Description

Structural Diagram

Exhibit 16 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 16
Structural Diagram



Source: DEF

1. FPSC issues financing order, permitted under state statute, that creates nuclear asset-recovery property in the hands of DEF
2. Via a true sale, DEF transfers the nuclear asset-recovery property to the issuer in exchange for cash payment
3. (a) Nuclear asset-recovery bonds issued in exchange for cash payment from bondholders (b) Nuclear asset-recovery property is pledged to indenture trustee for benefit of the bondholders
4. Electric utility customers pay charge on electricity bills on joint and several basis
5. Payments from electric utility customers used to pay principal and interest on the bonds
6. At least semi-annually, and, as frequently as monthly (any time), charge on all electricity customers adjusted to whatever level necessary (i.e., not subject to cap) to ensure timely principal and interest payments on the bonds

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the capital subaccount. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Capital Subaccount

On or before the date of issuance of the bonds, DEF will make a capital contribution to the issuer in an amount not less than 0.5% of the initial principal amount of the bonds, which will be deposited in the capital subaccount. Under the financing order, DEF will be entitled to a return on this capital contribution equal to the rate of interest on the latest maturing bond and payable according to the priority of payment set forth in the indenture and the series supplement.

Cash Commingling

The servicer is entitled to commingle the nuclear asset-recovery charges that it receives with its own funds until the funds are remitted to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from nuclear asset-recovery charges with other funds.

The servicer will remit nuclear asset-recovery charges based on estimated collections using a weighted average balance of days outstanding on DEF's retail bills. Nuclear asset-recovery charge collections remitted will represent the charges estimated to be received for any period based upon the average days outstanding and an estimated system-wide write-off percentage.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated nuclear asset-recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the indenture trustee within two business days.

Payment Priority

On each payment date, the indenture trustee will pay all amounts on deposit in the general subaccount of the collection account in the following order of priority:

1. payment of the indenture trustee's fees, expenses and outstanding indemnity amounts in an amount not to exceed annually $500,000 in the then current calendar year;
2. payment of the servicing fee plus any unpaid servicing fees from prior payment dates;
3. payment of the administration fee to the extent due on that payment date and of the fees of our independent manager plus any unpaid administration or management fees from prior payment dates;

4. payment of all of our other ordinary periodic operating expenses;
5. payment of the interest then due, including any past-due interest;
6. payment of the principal required to be paid on the final maturity date for each series or as a result of acceleration upon an event of default;
7. payment of the principal then scheduled to be paid in accordance with the expected sinking fund schedule, including any previously unpaid scheduled principal, paid pro rata among the bonds if there is a deficiency;
8. payment of any of our remaining unpaid operating expenses and any remaining amounts owed pursuant to the basic documents;
9. replenishment of any amounts drawn from the capital subaccount;
10. release to DEF of an amount equal to the rate of return on the amount contributed to the capital subaccount, including any portion of such rate of return for any prior payment date that has not yet been paid, so long as no event of default has occurred and is continuing; and
11. allocation of the remainder collected, if any, to the excess funds subaccount for future payments.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. a default for five business days in the payment when due of any interest on any bond;
2. a default in the payment of the then unpaid principal with respect to any series on the final maturity date for that series;
3. a default in the observance or performance of any covenants or agreements made by the issuer in the indenture or the series supplement (other than defaults described above) which continues for 30 days;
4. any representation or warranty made by the issuer having been incorrect in any material respect as of the time made, and such breach not having been cured within 30 days;
5. certain events of bankruptcy, insolvency, receivership or liquidation with respect to the issuer; or
6. a breach by the State of Florida or any of its agencies (including the FPSC), officers or employees that violates the pledge of the State of Florida.

Issuance of Additional Bonds

As authorized by the financing order, the issuer's organizational documents and the transaction documents give the issuer authority and flexibility to issue additional nuclear asset-recovery bonds in future transactions, with the approval of the FPSC. Each series of nuclear asset-recovery bonds that may be issued will be backed by separate nuclear asset-recovery property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of nuclear asset-recovery bonds. However, the issuer may not issue additional nuclear asset-recovery bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of nuclear asset-recovery property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the nuclear asset-recovery property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The issuer's limited liability company agreement requires that it have at least one independent manager, whose selection and replacement will be subject to ratification by the FPSC. The limited liability company agreement does not permit the issuer to engage in any activities not directly related to purchasing and owning the nuclear asset-recovery property and issuing one or more series of nuclear asset-recovery bonds. The list of permitted activities set forth in the limited liability company agreement may not be altered,

amended or repealed without the affirmative vote of a majority of the managers, which vote must include the affirmative vote of the independent manager.

Sponsor and Seller

DEF is the sponsor of the transaction and the seller of the nuclear asset-recovery property. DEF, a Florida limited liability company, is a regulated public utility primarily engaged in the generation, transmission, distribution, and sale of electricity in portions of Florida. DEF is an indirect, wholly-owned subsidiary of Duke Energy Corporation, one of the largest regulated utility holding company in the US.

DEF is subject to the jurisdiction of the Florida Commission with respect to retail utility rates, accounting, utility services, certain facilities, certain asset transfers, certain corporate mergers and other matters. DEF is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act with respect to acquisitions, operations and disposals of certain assets and facilities, services provided and rates charged, conduct among affiliates and other matters, and its nuclear power plant is also subject to the jurisdiction of the Nuclear Regulatory Commission.

Administrator

DEF will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. DEF, as administrator, will be entitled to receive an annual administration fee of $50,000 payable annually, in arrears. The administrator may not resign or be removed without satisfaction of the rating agency condition.

Securitization Structure Analysis

The Series A bonds are a relatively simple sequential structure without subordination and the capital subaccount provides sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of DEF (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating

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REPORT NUMBER 1031259

MOODY'S
INVESTORS SERVICE

Standard & Poor's Reviews, Affirms, 68 Classes From 31 Stranded Cost Transactions

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OVERVIEW

- We affirmed our ratings on 68 classes from 31 stranded cost securitizations.
- All of the transactions are backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts supporting our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations.

NEW YORK (Standard & Poor's) Feb. 25, 2013--Standard & Poor's Ratings Services today affirmed its ratings on 68 classes from 31 stranded cost securitizations (see list).

The affirmations reflect the transactions' ongoing stable performance and their continued ability to pay interest and principal in a manner commensurate with an 'AAA (sf)' rating stress, in our view.

Stranded cost securitizations are typically backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts. As currently constructed, the enhancement supports our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations. These securities traditionally have been created under state legislation in conjunction with the state utility commission, with the utility as the

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seller/servicer of the assets. Key features of the deals include:

- There are irrevocable statutory provisions and regulatory approvals, including the creation of mandatory periodic true-up of a nonbypassable transition charge and an absolute transfer and first-priority security interest in transition property;
- The true-up mechanisms are in place to ensure the transition charge can be adjusted to reflect any deficit in collections, as well as any other credit enhancement accounts; and
- There are typically cross-collateralization features such that all the customer classes help pay down the bonds. There may be certain deals that have rate caps and/or do not allow cross-collateralization.

For more information on legal and economic defeasance, please see "Securitizing Stranded Costs," published Jan. 18, 2001 on RatingsDirect.

As part of our regular surveillance, we reviewed and affirmed 68 classes from 31 stranded cost transactions.

Standard & Poor's will continue to monitor the securitizations and take rating actions as we deem necessary according to our criteria.

STANDARD & POOR'S 17G-7 DISCLOSURE REPORT

SEC Rule 17g-7 requires an NRSRO, for any report accompanying a credit rating relating to an asset-backed security as defined in the Rule, to include a description of the representations, warranties and enforcement mechanisms available to investors and a description of how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. The Rule applies to in-scope securities initially rated (including preliminary ratings) on or after Sept. 26, 2011.

If applicable, the Standard & Poor's 17g-7 Disclosure Report included in this credit rating report is available at http://standardandpoorsdisclosure-17g7.com

RELATED CRITERIA AND RESEARCH

- Standard & Poor's To Explicitly Recognize Credit Stability As An Important Rating Factor, Oct. 15, 2008
- Principles-Based Rating Methodology for Global Structured Finance Securities, May 29, 2007
- Legal Criteria For U.S. Structured Finance Transactions: Special-Purpose Entities, Oct. 1, 2006
- Securitizing Stranded Costs, Jan. 18, 2001

RATINGS AFFIRMED

AEP Texas Central Transition Funding II LLC
A
Rating

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A2	AAA (sf)
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

AEP Texas Central Transition Funding LLC
2002-1

	Rating
A-4	AAA (sf)
A-5	AAA (sf)

Atlantic City Electric Transition Funding LLC
2002-1

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Atlantic City Electric Transition Funding LLC
2003-1

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Centerpoint Energy Restoration Bond Company, LLC

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

CenterPoint Energy Transition Bond Company II LLC
A

	Rating
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

CenterPoint Energy Transition Bond Company LLC
2001-1

	Rating
A4	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

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Consumers Funding LLC
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Detroit Edison Securitization Funding LLC (The)
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Entergy Gulf States Reconstruction Funding I LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Entergy Texas Restoration Funding, LLC
Senior Secured Transition

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

FPL Recovery Funding LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding II LLC
2006-A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding LLC
2002-A

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Louisiana Public Facilities Authority-EGSL
2008

	Rating
A-1	AAA (sf)

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A-2	AAA (sf)
A-3	AAA (sf)

Louisiana Public Facilities Authority-ELL
2008

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Massachusetts RRB Special Purpose Trust 2005-1
2005-1

	Rating
A-4 BEC	AAA (sf)
A-4	AAA (sf)
A-4 CEC	AAA (sf)

Massachusetts RRB Special Purpose Trust WMECO-1

	Rating
A	AAA (sf)

MP Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

MP Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PE Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

PE Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PSE&G Transition Funding II LLC
2005-1

	Rating
A-3	AAA (sf)

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A-4	AAA (sf)

PSE&G Transition Funding LLC
2001-1

	Rating
A-6	AAA (sf)
A-7	AAA (sf)
A-8	AAA (sf)

PSNH Funding LLC
2001-1

	Rating
A-3	AAA (sf)

Rockland Electric Company Transition Funding LLC
2004-1

	Rating
2004-1	AAA (sf)

RSB BondCo LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2003-1

	Rating
A-4	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2004-1

	Rating
A-3	AAA (sf)

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Securitizing Stranded Costs

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Table Of Contents

Business and Legal Overview

Overview of Stranded Cost Securitization

The Rating Approach

Related Criteria

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Securitizing Stranded Costs

*(**Editor's Note:** We originally published this criteria article on Jan. 18, 2001. We've republished it following our periodic review completed on Dec. 1, 2016. As a result of our review, we updated the contact information and the related criteria, and corrected a reference in the section "Adequate Provision.")*

Electric utilities historically have enjoyed protected monopolistic status, in return for an obligation to provide service to the customer base whenever requested. In return, utilities have made significant long-term investments and entered into long-term power purchase contracts with the expectation that these would be recoverable through customer rates. In 1992, the enactment of the National Energy Policy Act introduced wholesale electric competition into the industry. Since then, almost half the states have taken steps toward a competitive retail market by legislating or ordering frameworks for "retail access," through which all customers will be able to choose their own electric generation supplier. With a competitive market taking shape, many utilities have found themselves saddled with significant unrecoverable contractual and sunk costs, generically known as stranded costs. These stranded costs are not new, but rather have already been approved by regulators and are incorporated in existing utility rates as part of traditional cost-plus regulation. If utilities are to compete in a deregulated market, however, they cannot pass these stranded costs along to customers. In many cases, the inability of a utility to recover a significant portion of these costs would result in significant financial deterioration, and in the worst cases, insolvency.

As noted, many legislatures and state regulatory commissions have established the means by which utilities can avert financial deterioration while also providing customers with lower rates. Asset-backed securitization is one such alternative. In several states, such as California, Pennsylvania, Massachusetts, Texas, New Jersey, Michigan, New Hampshire, Connecticut and Illinois, legislatures have enacted laws that enable utilities to finance the recover-y of at least a portion of their stranded costs by issuing bonds backed by a statutory right to recover stranded costs.

In December 1997, the three California investor-owned utilities: Pacific Gas & Electric Co., Southern California Edison Co., and San Diego Gas & Electric Co., securitized more than $6 billion of their approximately $28 billion of total stranded investment. During 1998, Illinois Power Co. securitized $864 million followed by Commonwealth Edison Co.'s $34 billion securitization transaction. In 1999, one Massachusetts utility and three Pennsylvania utilities completed securitization transactions. Boston Edison Company issued $725 million of rate reduction certificates. PECO Energy Co. issued $4 billion, PP & L Inc. issued $2.42 billion and West Penn Power Company issued $600 million of transaction bonds. In 2000, PECO issued an additional $1 billion and in 2001, utilities in New Jersey, Connecticut, Michigan, and Texas may come to market with rate reduction bonds.

Utilities in states that have not yet addressed industry restructuring through legislative action or regulatory order, such as Indiana, Kentucky, Florida, and North Carolina, are generally low-cost producers with limited, if any, stranded assets. These states are much less motivated, therefore, to pursue industry restructuring, let alone securitization, at the present time. Whether or not these states ultimately pass relevant legislation, however, the relative competitive standing of their utilities will inevitably be diluted as high-cost utilities in other states shed a substantial portion of their high-cost assets through securitization.

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Standard & Poor's believes that securitization of stranded costs is at least neutral, and generally positive for utility credit quality. The utility acquires cash up front, instead of receiving an increasingly at-risk revenue stream over time. Proceeds of the securitization are expected to be used principally to shrink a utility's total capitalization structure, including retiring debt that carries a higher coupon than that borne by the highly rated securitized bonds. In most cases, these interest savings are passed along directly to customers in the form of lower rates. Generally, the amount of rate reduction bonds that the utilities issued was designed specifically to generate a legislatively mandated rate reduction for customers.

Business and Legal Overview

What Are Stranded Costs?

Stranded costs are broadly defined to include any costs that were incorporated in the traditional regulatory cost-plus scheme that cannot be passed on to customers in a competitive marketplace. The most significant of these stranded costs are investments in high-cost nuclear and fossil plants. They also include deferred and capitalized operating costs, conservation and economic development expenditures, nuclear decommissioning costs, and long-term contractual obligations with high cost nonutility generators.

In the past, utilities constructed large, centrally located plants to gain economies of scale in producing electricity. Extremely long construction lead times and overly aggressive demand forecasts caused management to err on the side of oversupply to meet customer demand. Furthermore, the monopoly environment meant utilities lacked a strong incentive to contain costs. Indeed, the larger a utility's rate base was, the more investment on which the utility could earn a return. In addition, costs were exacerbated by circumstances. The last round of base-load construction occurred in the late 1970s and early 1980s, which was an era of high inflation and high interest rates. Finally, the nuclear incident at Three Mile Island in 1979 resulted in heightened Nuclear Regulatory Commission supervision, extending the timetable for plant completions and elevating capital costs significantly.

Since that time, new technologies have greatly reduced the cost of building generating facilities. Even more importantly, the economics of building smaller plants have continued to advance. The lead time for construction has been drastically reduced, from as much as 10 years to as little as 18 months. This reduction is in part due to the construction of much smaller-scale highly efficient plants. As a result, the cost of incremental generation today is significantly lower than the embedded cost of plant of most utilities. The differential is most evident in nuclear plants. For instance, the 1,143 megawatt (MW) Nine Mile Point 2 nuclear plant, operated by Niagara Mohawk Power, was completed in 1988 at a cost of about $5,000 per kilowatt (kW), after a construction period of more than 10 years. This compares with a 500 MW gas-fired combined-cycle plant today that can be built in about 18 months at a cost of $450 to $550 per kW. While prudency hearings did lead to significant write-offs during the rate base proceedings of Nine Mile Point 2, the bulk of these costs were simply included in rates and are now being recovered from customers over a lengthy period of time.

Developments in Industry Environment

The enactment of the National Energy Policy Act of 1992 (NEPA) marks the beginning of the end of the last major government-protected monopoly. NEPA authorized the Federal Energy Regulatory Commission (FERC) to mandate

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that utilities become open-access common carriers for wholesale electric sales, known as wholesale wheeling. Wholesale sales are bulk power sales between utilities or between a utility and a third-party producer. If two utilities are not interconnected, they would need access to a third party's transmission network to complete such a transaction.

The ability of a utility to sell power to an end user that is not within its franchise service territory, or the sale of power from an independent power producer to an end user, is called "retail wheeling." Currently, utilities are not permitted to engage in retail wheeling. However, retail customers, aware that there may be cheaper power sources than their current supplier, are pressuring state regulators to permit them to buy power from alternative suppliers. While most regulators agree that competition will lower the price of power, some assert that the objective is not merely to lower rates, but to provide customers with the option to choose their power provider. The vast majority of utilities and regulators concur that retail wheeling is inevitable, so states have had to grapple with how to make the transition from a regulated to a competitive environment. As mentioned earlier, many states have passed laws to phase in direct access to all customers and most of these legislative initiatives include securitization of stranded costs as a means of reducing utilities' financial exposure to a competitive retail environment.

Recovery of Stranded Costs

Vertically integrated electric utilities provide customers with three basic functions: generation, transmission, and distribution. Because of legal, regulatory, and technological advances, generation no longer displays monopoly characteristics. Transmission and distribution, or the "wires" function, on the other hand, will likely remain natural monopolies for the foreseeable future since it would be prohibitively expensive, and environmentally difficult, to construct redundant wires. Transmission consists of the high-voltage system that moves power in bulk from generating plants to an electric distribution system or a load center. Distribution receives stepped-down power, which is then transported at lower voltages to individual end users.

As part of various state legislative initiatives, utilities are being required to functionally, if not legally, disaggregate the vertically integrated components of their business. The costs of each function will be determined and itemized, or "unbundled," on customers' bills. While customers may purchase the actual electrons from a source other than their local utility, they must continue to transport this power over the distribution wires owned by their local utility. The local utility will use its wires system to charge customers for the services it provides, which will include transmission of power bought from other suppliers. Other services, such as billing and metering, could be maintained by the utility or could be opened to competition as well. Any stranded cost that is identified, isolated, and by mandate recoverable in utility rates, will also be recovered as a "wires charge;" it cannot be recovered as part of a generation charge, since customers may purchase generation from an alternative source.

Stranded costs, which have been realized as such only with the prospect of a competitive market, are included in current utility rates, but they are being amortized over as long a period as 30 to 40 years. Utilities need to accelerate the recovery of these above-market costs as quickly as possible if they are to lower their rates in preparation for a competitive environment.

Statutory Securitization of Stranded Costs

Until now, securitization of stranded assets has been made possible by state statute. In general, such statutes provide that the stranded assets themselves, plus interest on any bonds backed by stranded assets, the costs of servicing the

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bonds, and the costs of bond issuance all be collected through imposition of a tariff that is collectible from the utility's customers. While differing in particulars, the legislation in Pennsylvania, California, Illinois, Massachusetts, Texas, Connecticut, New Jersey, and elsewhere shares certain characteristics that are significant from a rating perspective.

The statutes specifically provide for securitization of the stranded costs through their sale to a financing subsidiary, and ultimately, to a trust that issues the bonds. The statutes award true sale status to the transfer of the stranded assets to a finance subsidiary. This should help support the legal conclusion that the transfer constitutes a true sale for bankruptcy purposes.

The statutes also provide that any proposal for a securitization of stranded assets be approved on an irrevocable basis by the relevant utility regulatory commission. The commission must set a tariff schedule. A tariff would be included in the ordinary bills sent to customers, and would amortize the stranded assets over the life of the proposed securitization. The tariff would be a separate itemized charge on the customer's bill, and could be either a fixed charge or tied to electricity usage, in either case included in the utility's wires charge. In scheduling the tariff needed to amortize the assets fully, the commission will take into account the utility's forecast regarding the projected size and demographics of its customer base. Where the tariff is tied to electricity usage, predicted customer usage will be important.

The tariffs that are actually collected from customers may fall short of what was originally anticipated. In addition to defaults in bill payments, the customer base might decline due to economic and/or technological factors, or usage might vary from what was originally predicted. This might happen, for instance, if the winter is unusually warm or the summer particularly cool. These are credit risks that could impact the ability of the tariff to amortize the assets fully. To address these risks, the legislatures have created a statutory form of credit support, known as the "true-up" mechanism. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers, so that the bond amortization schedule is met. This minimizes credit risk, except in the tail end of the transaction after the final true-up has occurred. Liquidity risk will, of course, exist during the periods between true-ups, to the extent that collection shortfalls occur.

The true-up mechanism also may effectively minimize prepayment risk. While there may be a tariff collection shortfall, it is also conceivable that excess collections may be received. This might occur, for example, if the customer base grows at a greater rate than originally anticipated when the tariffs were established. If collections exceed expectations for a particular period, the true-up mechanism could potentially reduce the remaining tariffs accordingly, so that the remaining transaction amortizes as scheduled.

When the utility applies for a true-up, the commission may not grant it immediately. The commission's delay will add to liquidity risk, because the shortfalls in collections to be remedied by the true-up will last for a longer period, until the commission finally grants the true-up. A delay by the commission will not create credit risk during the transaction, because once the true-up is in place, the adjusted tariff will take into account any collection shortfalls caused by its delay. But a delay in the true-up could result in a credit loss at the tail end of the transaction. The commission might take so long to grant the true-up that the final true-up never occurs. The statutes prevent this potential credit loss, as well as limit liquidity risk caused by a delay, by setting a deadline for implementation of the true-up. For example, California requires that the commission implement a true-up within 90 days of each anniversary date of the

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transaction. Other statutes simply require that the true-up filing with the commission becomes effective as early as the subsequent month.

The duration of these transactions and the ability to impose true-up periods and tariff collections indefinitely depend initially on whether the statutes impose a limit on how long the tariff may be collected from the utility's customers. Even where no limit is set as a statutory matter, the final true-up period, and the deadline for tariff collection, will depend on the legal final maturity date set for the bonds.

A utility might change hands for some reason, or file under Chapter 11 of the U.S. Bankruptcy Code. Such an event could strike at the heart of a potential securitization. Stranded assets will not be recovered unless the utility continues to provide electricity, bill its customers, transfer the tariff to the securitization trust, and apply for true-ups when necessary. The statutes address this problem by requiring that any successors to the utility, whether through bankruptcy, merger, or sale, must perform all of the utility's obligations in connection with the securitization.

The statutes provide another feature, by providing that, contrary to what would usually occur under the Uniform Commercial Code (UCC), there is a continued security interest in collections that have been commingled with other funds of the utility. This eliminates the usual credit risk associated with commingled funds in the event of a bankruptcy of the utility, although it fails to alleviate the liquidity risk and potential credit risk caused by the automatic stay (see Protection Against Credit Risk Caused By Commingling).

Finally, the statutes purport to create new property interests that must be perfected in a manner different from a UCC security interest. However, there is the possibility that stranded assets might still be considered subject to the prior lien of existing mortgage bonds. As a result, proceeds of the securitization might need to be applied to pay down the debt secured by the prior lien. This would, in any event, be positive from a credit perspective, because the bonds being retired (typically general obligation bonds bearing the rating of the utility) would have a higher interest rate than the 'AAA' rated securitized bonds used to retire the obligations.

Significance of Statutory Securitization

To date, stranded cost securitizations rated by Standard & Poor's have been based on legislation promulgated specifically for that purpose. Nevertheless, Standard & Poor's understands that, as a regulatory matter, state public utility commissions have, de facto, historically permitted recovery of stranded costs through rate adjustment.

While public utility commission regulatory action may well be sufficient to accomplish a securitized recovery of stranded costs, Standard & Poor's believes that there may be certain advantages to a legislation-backed securitization. Statutes have the benefit of having undergone the political process. Affected interests are given the opportunity to introduce, and argue for, their respective views. Hearings, drafting and amendments, floor debate, and overall legislative, and press and public scrutiny is the process by which political compromise is achieved and consensus built. The political process is viewed as investing the resulting legislation with a considerable degree of stability and support.

Viewed from the perspective of legal capacity, legislation has other advantages. At the heart of stranded cost securitization is the creation of a property right in the transition charges that serve as the basis for debt service. While it is clear that state legislatures are empowered by due process of law to create property rights, and to define and record how these rights are to be enjoyed, the ability of a state public utility commission to achieve the same end by

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regulatory compact may not be as certain.

Statutory status provides both constitutional and political protection against the risk that the creation and pledge of securitization property might be impaired by subsequent amendment. Historical precedent indicates that a legislature is unlikely to reverse itself once it has enacted a statute. Even if a political reversal were to occur, the Pennsylvania, Massachusetts and California statutes recognize that the bondholders possess certain constitutionally protected rights. Both statutes provide that if the right to recover stranded assets is compromised in any way, the bondholders are entitled to adequate compensation.

Nevertheless, in jurisdictions where public utility commissions may reasonably be viewed to have the capacity and authorization to order a recovery of stranded costs through a securitization-type procedure, and in which the commission has a stable history of consistent regulatory action, and in which the courts have paid regular deference to commission order, Standard & Poor's will consider regulatory-based recovery procedures case by case. However, any such consideration will necessarily involve a comparison by Standard & Poor's of the proposed regulating action and its enactment in contrast to rated, statute-based recovery plans.

Overview of Stranded Cost Securitization

Differences From Traditional Asset-Backed Transactions

Several key aspects differentiate the securitization of stranded costs from the securitization of more conventional asset types.

Cash Flow Receivables In a typical securitization, the originator of the assets transfers a pool of receivables to a trust and receives payment based on an agreed-upon value for those receivables. The key in this case is that the receivables have already been created. In contrast, stranded assets are not traditional receivables. Although the statutes create a present property right to future collection there is no initial cash flow backing the debt. Stranded assets represent the present right to the cash flow from receivables that will be created in the future when performance, in this case power generation and delivery, has been provided. But until this performance by the utility company takes place, the customer is not obligated to make any payments. Power generation is thus critical to assure full and timely payment to securityholders. As a result, there is a greater dependence on the utility as seller/servicer to do more than just collect payments on existing receivables and liquidate collateral to the extent needed.

Dependence on Servicer Servicer bankruptcy filings generally cause a change in servicer in most asset-backed transactions to prevent any disruptions in the required servicing and collections on the portfolio. Therefore, a substitute servicer must be ready and willing to take over all servicing responsibilities, if necessary. But unlike in typical securitizations, the transaction cannot fully rely on a substitute servicer. A utility does not just collect payments; it must continue to provide power. Because provision of electricity is fundamentally a necessary service, however, Chapter 7 liquidations are unlikely. In contrast, utilities will continue to operate in Chapter 11 reorganization, and thus, provide power and enforce collection from customers. Security is provided by the statutory mandate that collection obligations must be assumed by any successor corporation, including successors pursuant to reorganization, or otherwise. Due to the regulated nature of the industry a state-by-state review of successor servicing arrangements will be performed by Standard & Poor's.

True-up as Credit Support Credit support is entirely structured within the finances of the typical securitization. In contrast, in these transactions credit support has been provided by the statutory true-up mechanism. The parties must initially come up with a proposed amortization schedule. This schedule determines the tariff to be charged to recover

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the stranded costs, as well as the costs of the securitization itself. In setting this tariff schedule, the utility makes certain assumptions about charge-offs and sales over the following year or even decade. These assumptions will necessarily be inaccurate, especially as the date of forecast becomes increasingly remote. As a result, the stranded costs collected from customers could be less than those needed to repay the bonds. The true-up addresses this risk. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers. This effectively eliminates credit risk, except in the tail end of the transaction after the final true-up has occurred.

It should be understood that the true-up is not quite the same thing as an unlimited cash collateral account. Because the true-up will only be as good as collections in the following year, the amount of a current year's shortfall will not be fully recovered in the next year, due to charge-offs and forecast error occurring in that year. The amount will decrease over time, however, as successive true-ups are implemented. Where statutes do not place a limit on the tenor of the bonds and permit indefinite true-ups, the legal final maturity can simply be extended as a structural matter to gain the benefit of additional true-ups. This allows for as many true-ups as necessary to reduce the shortfalls that cannot be collected because they occur in what may have been originally contemplated as the final year of the transaction.

The true-up can make the amortization schedule for the bonds more predictable, unless dramatic consumption changes occur. This is because the true-up may adjust the amount payable to the trust by the customer base to the extent that there has been a shortfall or surplus in the prior period.

Perfection Mechanisms As stated above, the statutes provide for their own methods and location for filing and perfecting stranded assets. This may or may not result in the conclusion that stranded assets are new property interests not subject to UCC filing and priority rules, and thus are not subject to prior liens under the UCC.

Overcollateralization as Additional Credit Enhancement As mentioned earlier, the true-up mechanism will play an integral role in the transaction structure. The frequency of the true-up, for example, will influence the need for additional credit enhancement. Overcollateralization is the most likely form of credit support. Overcollateralization would cover the risks in the stub period following the final true-up, as well as make up for past shortfalls in collections that were never fully trued-up in the past.

Sale Accounting and FAS 125 Stranded cost securitizations do not possess sale status as an accounting matter under FAS 125. The Security Exchange Commission's Office of Chief Accountant has indicated that while the utilities may be able to sell the right to recover stranded costs as a legal matter, they will not be able to remove the assets (and associated debt) from their balance sheets under FAS 125. Nevertheless, as long as the transaction is structured as a true sale for legal purposes, Standard & Poor's will "back out" for analytical purposes nonrecourse debt and associated carrying costs from the utility's consolidated financial statements. While off-balance-sheet treatment would have enabled a more clear-cut analysis, Standard & Poor's will attempt to recognize the economic (as opposed to the accounting) reality.

Debt for Tax Treatment Any utility intending to securitize stranded costs will likely seek a private letter ruling from the IRS that states that the sale of the assets constitutes a "debt for tax transaction." In other words, the sale would not result in the immediate recognition of income. If the sale were deemed to provide immediate income, the utility would incur an immediate tax liability as well. This would destroy the economics of a securitization.

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The Rating Approach

Specific credit and legal risks that arise in securitizing stranded costs are addressed below. Standard & Poor's pursues a general rating methodology that attempts to stress in cash flows the ability of the true-up mechanism to ensure timely payment of interest and repayment of principal. In addition, it attempts to determine the number of true ups needed to meet these payments, that is, the structure's ability to meet its legal final maturity.

Credit Risks

Inaccuracy in Forecasting As mentioned earlier, the funds necessary to pay the stranded assets of the issuer are dependent on the tariff set by the commission and collected from the utility's customers. Tariff schedules are compiled for each customer class so that, taken together, the tariffs charged will amortize the stranded assets over the life of the securitization, while making timely interest payments. The tariff amounts themselves are based on estimates of cash flows to be collected from the customer base. The tariff amounts are thus determined based on such factors as the utility's forecast of population growth or decline, and seasonality in expected usage.

A shortfall in tariff collections can be caused by lower than expected usage due to:

Unanticipated customer migration (anticipated migration is included in the forecasting). Residential and small business customers are considered low risk in terms of customer migration. Large industrial customers, on the other hand, are considered a significant risk that requires additional stress to the cash flows (see Cash Flows). Additionally, as the term of transition bond issued exceeds the 6-8 years historically seen, technology driven customer migration increases significantly and begins to impact usage from commercial and small business customers.

Unanticipated weather conditions. Seasonal weather fluctuations are studied, and typically accounted for in setting the tariff charge.

Forecast error negatively impacts liquidity on the bonds and may "push out" the maturity of the bonds by requiring additional true-ups before the bonds can be paid out. To capture this risk, historical forecasting error is stressed at a certain multiple depending on the rating sought.

Where the tariff is recoverable from large industrial and commercial customers, Standard & Poor's will require data stratifying these customers by revenues generated. The cash flows will be additionally stressed to account for a potential loss in revenues caused by relocation of those customers with a high concentration risk in revenue generation for the utility.

Certain states have legislated rate caps on either the transaction charge for specific customer classes or on the total customer charge (i.e. through mandated rate reductions). Standard & Poor's will review the cash flow models to confirm that these rate caps are respected in stress scenarios.

Higher-Than-Expected Charge-Off Experience Like other forecasting variables, anticipated charge-offs are included in forecasting for purposes of setting the tariffs. Charge-offs may be higher than expected based on historical experience due to a variety of factors, including economic changes and unforeseen disasters. To account for this risk, charge-off history is stressed by the multiple relevant to the rating sought.

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Commingling by Aggregators The recent mandated unbundling of generation, transmission, and distribution charges has paved the way for alternative generation suppliers. The consumer may choose to purchase its generation services from an alternative supplier, while continuing to pay transmission and distribution (wires charge) to the utility. As discussed earlier, the tariff would be included in the wires charge, so that collection of the tariff itself would not be endangered by the existence of competition for generation services. However, commingling risk could exist as a result of potential billing arrangements for the utility's transmission and distribution services on the one hand, and the alternative energy provider's generation services on the other.

Generally, alternative energy service providers (retail electric providers; third-party servicers) may provide a consolidated bill for their generation services and the tariff owed to the utility. Where this is the case, the energy services provider is liable to pay the tariff regardless of whether it has received collections from the ultimate users. As a result, the securitization is exposed to commingling risk, and the resulting loss of commingled tariffs, in the event of the bankruptcy of an energy services provider.

This risk can be mitigated by certain restrictions on the length of time that an energy services provider may commingle funds before consolidated billing and service is terminated. If the energy services provider becomes delinquent, direct and consolidated billing may cease and service and separate billing to the end-user customer would be made up for the tariff. This means that the aggregator could commingle funds for a number of days before consolidated billing were terminated. To address this risk, Standard & Poor's stressed cash flow runs eliminate one month of collections per year at the utility's peak billing cycle.

This or other risks involving alternative energy providers may exist in other stranded cost securitizations. Standard & Poor's will assess these risks and the resulting necessary cash flow stresses on a case-by-case basis.

Estimate of Tariff Based on Collections Curve Generally, utilities are unable to allocate amounts received to various charges on the bill, so they were unable to calculate what percentage of collections constituted tariff collections. To address this problem, the utilities prepared forecasts of the percentages of amounts expected to be received during each of the following six months. These forecasts were based on collections curves developed periodically based on accounting studies and collections studies performed by the companies. For each monthly billing period, collections were estimated over six months based on the collections curve.

When the actual tariff remittances by customers are calculated (on the seventh month following each monthly billing period), either too much or too little may have been paid for that billing period. If the amount remitted has been less than the actual tariffs collected during that six-month period, the shortfall will be made up the following month out of the servicer's (the utility's) own funds. Thus, if the servicer is bankrupt (Standard & Poor's assumption), there is a risk the bondholders will lose that portion of the tariff. If the actual tariff amount has been less than the estimated tariff collections remitted to the trust, the servicer would be entitled to withhold the excess amount paid from the next month's remittances.

It is not clear whether this risk will be present in other securitizations. To date, the risk of lower-than-actual remittances has not been separately stressed in the cash flow runs. The one month of lost collections (see Commingling by Aggregators) has been sufficient to cover this risk. Standard & Poor's also has relied on data provided by the company showing relative lack of volatility in the collections curve.

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Higher Tariff An increase in tariff resulting from higher true-ups might become burdensome to consumers. This risk might have a spiraling effect, because greater charge-offs or customer migration or decreased usage might result, which in turn would result in the need for increased true-ups. Standard & Poor's will assess this risk by examining the highest per kWh tariff charge reached under the relevant stress scenarios. This risk increases as the term of the transaction increases to 10-15 years given greater technological/migration risk.

Cash Flows Two cash flow runs are generally required in rating stranded costs: a compounding forecast error run and an oscillating forecast error run, implementing the stress scenarios described below. These runs are created to test liquidity as well as the transaction's ability to meet the final maturity of each class of bonds in the transaction. They do so by creating scenarios where the true-up in the tariff amount (the reset of the tariff to reflect prior experience with actual collections and recover prior shortfalls in collections) continuously fails to reflect actual collections.

Compounding Forecast Error Run The compounding forecast error run assumes a compounding stressed error in forecasting resulting in a continual decline in actual tariff collections over what was forecast for that year. Assume, for example, that during year one, sales are 90% of the original sales forecast, that is, forecast error reflecting a multiple of the average forecast error for the customer class, where actual collections are less than expected collections.

At the end of year one, the tariff charge is recalculated assuming that year two customer sales will be what was experienced in year one, that is, 90% of the original expected forecast. Instead, year two sales are only 81% (90% of 90%) of the original sales forecast.

The sales decline is generally based on a multiple of the absolute value of the largest historical non-weather-normalized forecast variance by customer class. This compounding is assumed to continue from year to year over the life of the transaction.

Oscillating Forecast Error Run The oscillating forecast error run assumes a scenario where in one-year tariff collections exceed expectations, so that in the following year, the tariff is reset based on the prior year, only to experience a shortfall in actual collections. Assume for example that the appropriate stressed forecast error is 10%. During year one, sales are 90% (10% below) the original sales forecast. At the end of year one, the tariff is recalculated assuming that year two sales are also 90% of the original forecast. Instead, year two sales are 99% (110% of 90% level) of the original forecast. The tariff for the following year is reset assuming 99% of original forecast collections, only to receive 90% of originally forecast collections. This oscillation between 90% and 99% of original forecast is assumed to continue over the life of the transaction.

Legal Final Maturity The legal final maturity dates on stranded cost transactions are often set at up to two years beyond expected maturities. This additional period acknowledges the long-term nature of the liabilities being rated, and the corresponding possibility that fundamental changes in technology might take place that further stress the transaction in an unforeseen manner. One currently known possibility is that over time customers may increasingly switch to self-generation, which would enable them to cease paying the wires charge and thus, the tariff. Certain transactions have reduced this period by requiring more frequent (e.g. monthly) true-ups during the final year or two of the transaction.

Legal Risks

Reliance on Commission to Implement True-Up, and Potential Delay in Approving the True-Up Standard & Poor's believes that so long as the statute clearly specifies the maximum period before which the commission is compelled to implement the true-up, any shortfall in collections resulting from the delay can be sized and factored into the cash flow projections. Certain structures may permit the application of principal collections as liquidity for any interest payments due to noteholders during any true-up delay. In the absence of such features, adequate provision for liquidity and additional credit support should be demonstrated to Standard & Poor's.

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Adequate Provision Law permits alteration or limitation of right to transition property and right to collect tariffs if "adequate provision" is made to the bondholders. Although there has been no conclusive demonstration as to what constitutes "adequate provision," and how such alteration or limitation would affect timely interest and principal payments on the bonds, Standard & Poor's, in rated transactions, has received legal assurances that any such alteration would be constitutionally prohibited were it substantially to impair the security for the bonds. While such assurances do not really define adequate provision, Standard & Poor's believes, in practice, that adequate provision should prove to be the functional equivalent of the pledged transition property.

Stranded Assets to Aid Industry Restructuring

Securitization of stranded assets provides an efficient method electric utilities can use to quickly free themselves from the high cost of stranded assets that prevents them from becoming players in the emerging competitive retail generation market. At the same time, the statutory true-up mechanism provides strong credit support that has withstood 'AAA' stress criteria applied by Standard & Poor's.

Related Criteria

- Post-Default Ratings Methodology: When Does S&P Global Ratings Raise A Rating From 'D' Or 'SD'?, March 23, 2015
- U.S. Public Finance: Electric And Gas Utility Ratings, Dec. 16, 2014
- Methodology: Timeliness of Payments: Grace Periods, Guarantees, And Use of 'D' And 'SD' Ratings, Oct. 24, 2013
- Global Framework For Assessing Operational Risk In Structured Finance Transactions, Oct. 9, 2014
- Counterparty Risk Framework Methodology And Assumptions, June 25, 2013
- Criteria For Assigning 'CCC+', 'CCC', 'CCC-', And 'CC' Ratings, Oct. 1, 2012
- Global Investment Criteria for Temporary Investments in Transaction Accounts, May 31, 2012
- Principles Of Credit Ratings, Feb. 16, 2011
- Methodology: Credit Stability Criteria, May 3, 2010
- Use of CreditWatch And Outlooks, Sept. 14, 2009
- U.S. Legal Criteria For "Recycled" Special-Purpose Entities, Sept. 19, 2002

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Version 3

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Confidential Draft

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL
TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing sites and facilities in the Province for the generation of electrical energy and the production therefrom,[2] and conservation and demand management.

The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[1] Note: please see the preamble of the *Green Energy Act, 2009.*
[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".
[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

Confidential Draft

CONTENTS

PART I
GENERAL

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT

6. Fair adjustment, May 1, 2017 to April 30, 2018
7. Fair adjustment, May 1, 2018 to April 30, 2022

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay clean energy adjustment
9. Irrevocability of clean energy adjustment
10. Determination of clean energy adjustment
11. IESO to issue remittance notice to electricity vendors
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

18. Interpretation, portion of regulatory asset
19. Variance account
20. IESO funding shortfall
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Interpretation, investment asset
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment asset owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

103. Commencement
104. Short title

Confidential Draft

Schedule 1 Estimated finance amount

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated costs to be incurred by the IESO under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management, including storage,

(iii) energy efficiency,

(iv) 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, or

(v) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

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(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means the IESO, a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

"fair adjustment" means the determination of the rate payable for electricity in accordance with Part II; ("French")

"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner or an investment asset owner under section x; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means, in respect of a reference period, the amount determined under section 20xx for the reference period; ("French")

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

[4] Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"investment interest" means an ownership interest in the investment asset, which entitles an investment asset owner to the rights and benefits specified in the agreement under which the ownership interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the IESO funding shortfall; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

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(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

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Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

    i. The commodity price of the electricity used during the invoice period.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

    iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

    v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

    i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

    ii. A charge labelled as a "specific service charge" or "retail service charge".

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iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month.

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of its interest in the regulatory asset with the result of a named person becoming the owner of an investment interest.

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.

PART II
FAIR ADJUSTMENT

[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the average monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] the rate for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount.

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

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Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation applicable at the time when the payment is due; and

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

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Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall be determined as follows:

1. Calculate the estimated finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. Add the true up amount for the reference period, as determined in accordance with the prescribed method, to the estimated finance amount calculated under paragraph 1.

True up amount

(2) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

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i. differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

ii. variations in billings due to variations in electricity consumption.

IESO to issue remittance notice to electricity vendors

11xx. (1) The IESO shall, in accordance with the regulations, issue a remittance notice to each electricity vendor for the electricity vendor's portion, as determined in accordance with the regulations, of the clean energy adjustment in respect of a reference period.

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment from electricity vendors [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of collecting those accounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (6), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Collection of outstanding amounts, regulatory asset

(6) If the total clean energy adjustment payable by specified consumers in respect of a reference period is less than the amount contemplated to be payable under the

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applicable fair allocation calculation made by the Financial Services Manager under Part IV, the IESO may collect the difference from specified consumers.

Electricity vendor to invoice specified consumers

12xx. (1) The electricity vendor shall issue an invoice to each specified consumer for the consumer's amount of the clean energy adjustment in accordance with the regulations.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the IESO and the investment asset owners, collect the clean energy adjustment from specified consumers [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor other than the IESO shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the regulations.

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Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

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2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be borne by the specified consumers in respect of clean energy costs [in the absence of this Act].

2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

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1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers for each reference period.

    iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

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FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare and provide to the Minister a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred or potential transfers should be made for the purposes of this Act.

Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align the expected finance amount determined under Schedule 1 that would become due and payable during a reference period with the fair allocation amount determined for the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment for the reference period.

2. Incurrences and transfers should be implemented in a manner that, as the Financial Services Manager considers to be reasonable, is cost effective and reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

[Note for reference: List of items for consideration in regulation: (a) anticipated IESO funding shortfalls and related transfer amounts; (b) the maturities of funding obligations; (c) the availability of refinancings, redemption opportunities and liquidity terms and conditions in order to achieve the objective contemplated in section X(1)(a); (d) the availability of currency and interest rate hedging facilities for the purpose of mitigating any differences between the expected finance amounts becoming due and payable during a reference period and the fair allocation amount for the reference period; (d) the amount and potential variability of interest rates and related financing costs; (e) available capital markets in which funding obligations may be incurred.]

Amendments to approved plan

(3) The Financial Services Manager may amend the Financing Plan at any time, without the approval of the Minister, subject to the requirements set out in this section.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in a clean energy adjustment for the reference period unless,

Confidential Draft

(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount for the reference period and the amount of the fair adjustment for the reference period].

Confidentiality of plan

(4) The Financing Plan is deemed to be a record subject to section 17 of the *Freedom of Information and Protection of Privacy Act.*

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations and make transfers in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, section [paramountcy of funding obligations] applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish one or more financing entities that may incur funding obligations and make transfers.

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

Effect of amendment to Fair Allocation Plan

(4) No funding obligation incurred and no transfer made by the Financial Services Manager shall be affected by any inconsistency with the Financing Plan, including any inconsistency with the principles set out in section X.

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PART V
THE REGULATORY ASSET

Interpretation, portion of regulatory asset

18xx. If a transfer under this Part provides for the transfer of a portion of the regulatory asset, any references in this Part to the regulatory asset are deemed to be references to the portion of the regulatory asset transferred.

[Note: This is meant to assist with clarity in the subsequent provisions.]

Variance account

19xx. (1) The Board shall issue an accounting order to authorize the IESO to do the following:

1. Create a variance account for the purposes of this Act.

2. Record the IESO funding shortfall in the variance account from time to time.

3. Recover the IESO funding shortfall in accordance with section X and the regulations.

No hearing

(2) The order of the Board shall be made in writing and without holding a hearing.

No appeals, etc.

(3) No appeal lies from the order of the Board.

IESO funding shortfall

20xx. (1) The IESO shall determine the IESO funding shortfall for each month in the following manner:

1. Calculate the sum of all invoice amounts issued to specified consumers for the month if Part II of this Act did not apply.

2. Calculate the sum of all invoice amounts issued to specified consumers for the month.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1, and make any other adjustments as may be prescribed.

Same

(2) To the extent that the IESO funding shortfall for any month is based on an estimate of the electricity used by specified consumers, the IESO shall record an

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adjustment in the variance account in the following month to reflect the difference between the estimate and the electricity actually used by specified consumers.

Recording of IESO funding shortfall

(3) IESO shall record the IESO funding shortfall from time to time, including adjustments resulting from the exercise of the right of recovery under section 21 and any transfer under section 22, in the variance account.

Recording determinative

(4) A recording of the IESO funding shortfall in the variance account is determinative of the amount of IESO funding shortfall at the time of the recording.

Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the IESO funding shortfall.

Same, restrictions

(2) The IESO's right to recover the IESO funding shortfall under subsection (1) is subject to the following:

1. The IESO shall not be entitled to collect the IESO funding shortfall from specified consumers before May 1, 2022.

2. The process by which the IESO may recover the IESO funding shortfall shall be established by the Board, having regard to the amount of the IESO funding shortfall from time to time and the [fair allocation calculation].

3. Such other restrictions as may be prescribed.

Transfer of regulatory asset

22xx. (1) The IESO may transfer all or a portion of the regulatory asset to any financing entity under the Financing Plan, which transfer creates the investment asset.

Same

(2) Upon receipt of any payment in consideration for the transfer,

(a) the IESO shall record the payment as a reduction of the IESO funding shortfall in the variance account; and

(b) unless otherwise provided for in this Act, the IESO shall have no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

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Same

(3) Upon transfer, the financing entity becomes an investment asset owner and acquires an investment interest.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment asset owner of the regulatory asset, and the investment asset created by the transfer shall be immediately vested in the transferee.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Interpretation, investment asset

24xx. If a transfer under this Part provides for the transfer of an investment asset, any references in this Part to the investment interest are deemed to be references to the specific investment interest transferred.

Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests without duplication:

1. The right to impose, bill, invoice, collect and receive the clean energy adjustment from specified consumers, including the right to determine the amount of the clean energy adjustment in accordance with this Act.

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2. The right to receive and collect all amounts in respect of the clean energy adjustment that are imposed, billed and invoiced under this Act, including any amounts that all amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge, bill and invoice the clean energy adjustment.

5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of the clean energy adjustment.

6. All rights of any kind (whether in tort, contract or otherwise) that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset owner's regulatory asset.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether such revenue, collections, claims, payments and proceeds are imposed, invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

No set off, etc.

(2) The investment asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, an agent of the investment asset owner or an owner of distribution system assets in the Province;

(b) in connection with any default, bankruptcy, reorganization or other insolvency proceeding of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

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Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with section [xx] of the *Personal Property Security Act*.

Collective action required

(4) If the investment asset owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment asset owner collectively and in coordination with all other investment asset owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment asset owner as a collective in accordance with its terms. [Note: Successors may need to be addressed here.]

Transfer of investment interest

26xx. An investment asset owner may transfer all or a portion of its rights and interests in an investment interest to any other investment asset owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the owner of the investment interest acquired a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment asset owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (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 investment asset owner shall have priority over any liens in favour of such other persons.

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Investment asset owner may grant security interest

28xx. (1) An investment asset owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by the owner of an investment interest to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment asset owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [investment asset account] or other account of any electricity vendor, the IESO, an agent of an electricity vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

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PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment asset owner or a secured party, order the sequestration and payment of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment asset owner or secured party by any person or entity authorized to collect the clean energy adjustment, defaults on any required remittance of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Same

(3) An order under subsection (1) shall remain in full force and effect despite any bankruptcy, reorganization or other insolvency proceedings with respect to the person or entity who is subject to the order.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

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No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required with respect to the actions to be taken in compliance with this Act, including actions to be taken under the Financing Plan or in relation to the establishment of the Fair Allocation Plan.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under this section unless the prescribed requirements, if any, are satisfied.

Non-application, Financial Administration Act, s. 28[7]

37xx. Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.

Regulations

38xx. The Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act….

(b) prescribing types of payment obligations that constitute funding obligations;

(a) governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment.

(b) governing the inclusion of adjustments under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments.

[7] Note - see s. 51 of the Electricity Act, 1998

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[Note: reg-making powers to be dealt with in subsequent draft]

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under that Act and engaging in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including the following:

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1. Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by the *Ontario Fair Hydro Plan Act, 2017* subject to the right of reimbursement from amounts available to the financing entity.

2. Preparing reports on behalf of the financing entity.

3. Enforcing the rights of the financing entity.

4. Signing offering documents as sponsor or otherwise on behalf of the financing entity.

5. Exercising the powers and performing the duties of the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*

6. Issuing non-equity securities in Ontario Power Generation Inc. or on if its subsidiaries, for the purpose of raising funds to acquire debt or equity interests in a financing entity whose activities are limited to the incurrence of funding obligations pursuant to the *Ontario Fair Hydro Plan Act, 2017*.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

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[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* would be amended by adding the following paragraph:

6. To facilitate the implementation of the [TBD - language should link up with language from new Act.]

205x. Section 70 of the Act would be amended by adding the following subsection

[Note - still need to draft new subs. 70 (2.1)]

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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SCHEDULE 1
ESTIMATED FINANCE AMOUNT

Estimated finance amount

1. The estimated finance amount for a reference period shall be determined by estimating, prior to the start of a reference period, the sum of the following:

1. The sum of all amounts that are payable during the reference period by or on behalf of the investment asset owners to satisfy an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase, of all or a portion of the amount advanced to the owners under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

2. The sum of all funding costs for the reference period, determined as follows:

    i. Calculate the aggregate of all interest, scheduled principal and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of investment assets owners during the reference period in respect of all funding obligations, including such amounts as may be prescribed.

    ii. Calculate the sum of the aggregate of all amounts received by or on behalf of investment asset owners during the reference period in respect of all funding obligations and such other amounts as may be prescribed.

    iii. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

3. The sum of all amounts payable during the reference period by or on behalf of investment asset owners to redeem, prepay or repurchase a funding obligation, including any premium, make-whole or other amount becoming payable under a funding obligation to give effect to the redemption, prepayment or repurchase.

4. The balance of the finance reserve at the end of the reference period, as determined under section 3 to this Schedule.

5. The sum of any other amounts payable during the reference period by or on behalf of investment asset owners that were incurred or committed to directly or indirectly in connection with the incurrence of funding obligations under the Financing Plan during the reference period, which may include such amounts as may be prescribed.

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Funding costs

2. For the purposes of paragraph 2 of section 1 to this Schedule, the funding costs for a reference period are determined by taking the following steps:

Finance reserve balance

3. (1) For the purposes of paragraph 4 of section 1 to this Schedule, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

1. Calculate the sum of all amounts deposited by or on behalf of investment asset owners during the reference period in order to pre-fund, collateralize, over-collateralize or establish reserves for the ultimate payment of funding obligations or for related contingencies specified in the Financing Plan.

2. Calculate the sum of all amounts withdrawn by or on behalf of investment asset owners during the reference period from deposits previously made as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

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From:	Hanslep, Malle (MOF)
To:	Ken Kandeepan; Gadi Mayman; Anna Strathy; Ronald Kwan; Mike Manning
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject:	FW: Guarantee
Date:	Tuesday, April 25, 2017 10:02:10 AM

FYI

From: Whitfield, Tobias P. (MOF)
Sent: April 24, 2017 4:36 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Rehob, James (ENERGY)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Subject: RE: Guarantee

We recently received a draft term sheet for the guarantee, and wanted to make sure you have seen it as well in order to move this discussion forward. Please let me know if you haven't seen it.

Also, we have been discussing section "5xx.", the Protection and assurance provision of the draft legislation. We wonder if CLOC has been consulted on these provisions, particularly the reference to adversely affecting an investment asset in clause 5(1)(c). We were wondering if there is a risk that this provision is so broad as to inadvertently fetter the Crown in developing tax policy (e.g. could it prohibit a new general tax on the proceeds from investments), or to undermine new general securities regulatory activity that the Crown might legislate or the OSC might carry out.

Best,
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: April 24, 2017 11:55 AM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Rehob, James (ENERGY)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Subject: RE: Guarantee

We just wanted to touch base on this and see if you have had a chance to review or wanted to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 5:24 PM
To: Whitfield, Tobias P. (MOF); Hanslep, Malle (MOF); Rehob, James (ENERGY)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Subject: FW: Guarantee

Thanks for getting back to us, Toby. I have added James as he is also discussing this provision with CLOC.

I have asked Blakes for a form of performance guarantee and will share what I receive.

From: Whitfield, Tobias P. (MOF)
Sent: April-21-17 5:20 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

We have discussed this with the OFA, and we have endeavoured to provide a provision that we think should allow the financial guarantee being contemplated. Please let us know if you think it provides the necessary scope for what would be required to meet the Province's needs. We deleted the existing provision, although if you think that more general contractual authority is needed, something else could be considered. However, we don't think that it is appropriate to have a statutory appropriation for such general indemnity and guarantee provisions.

We would expect that the guarantee would be capped and only provide for the repayment of the principal and interest of the debt securities of the financial asset owner, and that would usually be done in the OIC.

We don't have any experience with performance guarantees. Is there a need for the Minister of Energy to require performance by the LDCs? We were also wondering if Blakes or another party involved in these discussions might have an example of what is being considered.

We also removed the exemption from s. 28 of the FAA. We have discussed this with OFA staff, and given the importance and breadth of this Act and Program, it doesn't seem appropriate to exempt the entire Act from s. 28 of the FAA.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM

To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.95.html[leg.state.fl.us] .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to

enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Kaitlin.Montgomery@ontario.ca on behalf of Ramchandani, Rima
To:	Gadi Mayman; Carolyn Calwell (MCSS); Steen Hume (CAB); Ken Kandeepan; Tom McKinlay (MAG); ASHBOURNE, STEPHEN (STEPHEN.ASHBOURNE@blakes.com); Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF); Hresa Gavaris; Anna Strathy; Mark.Laing@tdsecurities.com; Ronald Kwan; Maharukh.Hilloowala@tdsecurities.com; Trevor.Thom@tdsecurities.com
Subject:	FW: Meeting re Provincial Protection & Assurances Agreement
Start:	Wednesday, July 12, 2017 12:00:00 PM
End:	Wednesday, July 12, 2017 1:30:00 PM
Location:	Torys Boardroom 33S3 & S4

-----Original Appointment-----
From: rpalikrousis@torys.com [mailto:rpalikrousis@torys.com] On Behalf Of Ramchandani, Rima
Sent: July 10, 2017 3:35 PM
To: Ramchandani, Rima; Mansoori, Nina; 'leslie.wong@opg.com'; 'john.s.lee@opg.com'; 'ken.ryfa@opg.com'; 'tyler.mcauley@opg.com'; 'jenny.jorda@opg.com'; Montgomery, Kaitlin (MOF); Nelms, Scott (MOF); 'RSebastiano@osler.com'; 'PMilligan@osler.com'; 'Katrina.Niehaus@gs.com'; 'MFitzpatrick@hunton.com'; 'aobrian@hunton.com'
Cc: Palikrousis, Rita
Subject: Meeting re Provincial Protection & Assurances Agreement
When: July 12, 2017 12:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Torys Boardroom 33S3 & S4

Good Afternoon, Please feel free to forward this invitation to others from your organization that will be attending. Thank you.

Dial-in: 1.800.600.0998
Access Code: 8657666#

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From:	Nelms, Scott (MOF)
To:	Mike Manning; Ronald Kwan
Subject:	FW: Next Round Hydro Quebec
Date:	Thursday, August 03, 2017 10:25:27 AM

Fyi – see below. I passed this along to the MO as well.

From: Schlaepfer, Martin (ENERGY)
Sent: August 3, 2017 10:18 AM
To: Hume, Steen (ENERGY); Nelms, Scott (MOF)
Cc: Armstrong, Hillary (ENERGY)
Subject: FW: Next Round Hydro Quebec

FYI, MO is asking CO that we add the Provincial Guarantee to our list of topics to cover with PO on the 16th.

We'll need to think about what a briefing product could look like and who would lead it. Perhaps this is something we could discuss at our RMI meeting this afternoon.

Martin

From: Teliszewsky, Andrew (ENERGY)
Sent: August 3, 2017 9:49 AM
To: Bromm, William (CAB)
Cc: Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Subject: Re: Next Round Hydro Quebec

Good Morning:

Had wanted to update folks planning for our time on 16 August.

We have those two hours and am now proposing that we attempt to cover three separate topics (3 x ~ 40 mins each).

1. Hydro Quebec
2. OFHP / LTEP curve
3. NEW : OFHP "Provincial Guarantee"

Note : the Provincial Guarantee is a core requirement of the debt / borrowing platform that is required for the dealers and rating agencies to confirm a score for this product so that OPG trust can go to market this fall.

Gadi has been doing battle with dealers on this and we think that 16th would be an appropriate milestone to brief decision makers on the results. Forward planning, this would require a TB/MBC conversation and the overall goal for that would be to have that done when Cabinet is around that

last week of August.

Anyway, if we can add this to the agenda to 16th, then we'd probably want to increase size of room to have a sort of mini-FPC so that MOF and TBS MO are participants.

I think that Hydro Quebec item will be quick based on where we are at with discussions and the LTEP curve we got really good directional thinking at yesterday afternoon's multicorners, so if we invited counterparts for 1.15pm then we should be okay, I wager / hope?

Hope this makes sense - let me know if this works for your end and then I'll make sure that I bring TBS and MOF (Ali and Jason) up the curve and ensure they are ready for 16th in advance.

Many thanks, in advance.

Atel/

Andrew Teliszewsky

Chief of Staff | Office of Hon. Glenn Thibeault
Ministry of Energy
andrew.teliszewsky@ontario.ca
416-327-3550 (o)
416-436-6370 (m)

On Jul 28, 2017, at 3:44 PM, Bromm, William (CAB) <William.Bromm2@ontario.ca> wrote:

> Just want to update you on these meetings. Because of a few calendar conflicts, the meetings will have to be from 11 – 12 & 12 to 1 rather than 12 - 1 & 1 - 2. Hopefully the shift back by an hour won't be an issue.
>
> William
>
> ---
>
> **From:** Teliszewsky, Andrew (ENERGY) <Andrew.Teliszewsky@ontario.ca>
> **Sent:** Tuesday, July 25, 2017 7:43 PM
> **To:** Kwamena, Boafoa (CAB); Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
> **Cc:** Baker, Carys (ENERGY)
> **Subject:** Re: Next Round Hydro Quebec
>
> Good Evening:
>
> Owing to the significant dialogue regarding this week's LTEP Cabinet Submission and the factors that will feed into the full price curve, we have been granted more time in Andrew Bevan's calendar for that third week of August.
>
> We still have Mike / Gillian next week (2 August) on LTEP Curve / OFHP Implications, but please take

note of the following updates :

August 16th

12 to 1pm – Hydro-Quebec Update

1 to 2pm – Long Term Energy Plan / Price Curve Meeting

Asking please for CO to update our Outlook Calendars' accordingly.

Many thanks, as always!

Andrew Teliszewsky
416-327-3550

From: Kwamena, Boafoa (CAB)
Sent: Thursday, July 20, 2017 11:03 AM
To: Teliszewsky, Andrew (ENERGY); Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Cc: Baker, Carys (ENERGY)
Subject: RE: Next Round Hydro Quebec

Will do.

From: Teliszewsky, Andrew (ENERGY)
Sent: July 20, 2017 10:15 AM
To: Greenberg, Martha (CAB); Kwamena, Boafoa (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Cc: Baker, Carys (ENERGY)
Subject: Re: Next Round Hydro Quebec

Good Morning:

Appreciate that we are not yet through tomorrow's multicorners discussions regarding Hydro Quebec, however to ensure continued coordination and to plan ahead for when senior PO staff have returned from various holidays, a "next date" has been provided to us via Bevan's calendar.

Wednesday 16 August @ noon - 1pm.

If CO would be so kind as to organize calendar invitation would be terrific.

Many thanks, in advance.

Andrew Teliszewsky
416-327-3550

From: Teliszewsky, Andrew (ENERGY)
Sent: Friday, July 14, 2017 3:05 PM
To: Greenberg, Martha (CAB); Kwamena, Boafoa (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Subject: Next Round Hydro Quebec

Good Afternoon:

Have confirmed next round Hydro Quebec briefing in Bevan's calendar works for 3-4pm on Friday 21 July (one week from right now).

IESO has advised that this is "pushing them" but will need to be made to work given senior PO calendar.

Asking CO to please find the location that suits and dispatch the outlook calendar invites, please.

Many thanks, in advance.

Atel/

Andrew Teliszewsky

Chief of Staff | Office of Hon. Glenn Thibeault
Ministry of Energy
andrew.teliszewsky@ontario.ca
416-327-3550 (o)
416-436-6370 (m)

From:	Ronald Kwan on behalf of HAHN PARKER Janet -TREASURY
To:	Bruno Amara; Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; "Persaud, Donnie - Debt Capital Markets"; Benaiah, Ian; "Montgomery, Kaitlin (MOF)"; Anna Strathy; Carlos Yep; "Cindy.Veinot@ontario.ca"; Mike Manning; Steen Hume (CAB); Niehaus, Katrina
Cc:	Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject:	FW: OPG - FHP - Guarantee Meeting and Conference Call
Attachments:	ATT14600 1.jpg disclaimer.html

-----Original Appointment-----
From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: August-02-17 16:06
To: HAHN PARKER Janet -TREASURY; Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian; 'Montgomery, Kaitlin (MOF)'; Anna Strathy; Carlos Yep; 'Cindy.Veinot@ontario.ca'; Mike Manning; Steen Hume (CAB); Niehaus, Katrina
Cc: Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject: OPG - FHP - Guarantee Meeting and Conference Call
When: August-10-17 14:00-15:00 (UTC-05:00) Eastern Time (US & Canada).
Where: OFA Offices, 1 Dundas St West., 14th Floor

When: Thursday, August 10, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OFA Offices, 1 Dundas St West., 14th Floor

Note: The GMT offset above does not reflect daylight saving time adjustments.

+~+~+~+~+~+~+~+~+~+~+

Meeting Location Updated: 1 Dundas St., West, 14th floor
Attendees please call Hresa at 5-8002 to gain access to the Executive Boardroom on the 14th Floor

Toll-free dial-in number: 1-866-602-5461
Local dial-in number: 416-212-8011
Conference ID: 4717656

Please come to OPG's office, 18th floor. We will meet you at the Glass Doors.

No pass required.

Thank you.

Notice Updated: August 9 @ 3:40 - see the following e-mail

From: Adalja, Sunil [mailto:Sunil.Adalja@cibc.com]
Sent: Wednesday, August 09, 2017 3:28 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Persaud, Donnie - Debt Capital Markets; 'Niehaus, Katrina'; 'Turnbull, Vickie'; 'Sebastiano, Rocco'; 'Milligan, Peter'; 'Smith, Elliot'; 'Khan, Nur'; Alvi, Shariq; 'Delaney, Brian'; 'Benaiah, Ian'; Persad, Nicole; 'King, Richard'; Hume, Tyler; D'Angelo, Paul; Stoddart, Jesse - Debt Capital Markets; 'Fullerton, Rick'; Maciel, Andrew
Subject: EXTERNAL – RE: OGP/Fair Hydro - Provincial Guarantee

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

John, as discussed, below is our summary for the discussion with the Province –
Thanks, Sunil.

Change in Law
* We are okay with the province assuming the financing obligations of the Financing Entity ("FE") with no early redemption rights (by either the province or investors) in the circumstance of a Change in Law.
* We note that in the US, the potential downgrade on the bonds once the province steps could result in the bonds spreads widening, which would result in losses for US investors. US investors would expect to be compensated for that risk (either through a pre-determined step-up in pricing when the province assumes the obligation, and/or through a premium they would require for this risk when purchasing the notes initially).

Approval Process
* The province (OFA) will want to see the form of the various program and series documents that will be captured by the guarantee/support before approving any guarantee. As long as the documents are in the agreed form, they would NOT need to provide specific approval for each series.
* We understand that Provincial control of the financing program would eliminate OPG's consolidation of the Financing Entity so Provincial approval of transaction terms needs to be avoided.
* Since the financing documents cannot affect how or when the Provincial Guarantee is triggered (Change in Law and Constitutionality of the Program) then specific Provincial approval of transaction documentation would be seen as exerting control and must be avoided.

Warehousing Risk
* The issue is the moratorium period and the length of time for the warehouse provider to be taken out if there is an extended period of time where the program can no longer be funded in the term markets
* Option here if the warehouse providers are to absorb the risk is:
o On default, pricing would step up materially
o After [one] year following the moratorium ended, pricing would step up again and would continue to do so every 6 months until the warehouse is repaid
o This mechanic helps compensate the warehouse providers to the extended tail risk in this transaction and creates alignment of interest
* The warehouse providers cannot control the maturity of other pieces of FE debt issues. The step up schedule incents the financial manager to ensure that there are no competing maturities (so that the warehouse provider can be repaid as quickly as possible) during the first few years after the moratorium period ends
* This would be subject to banks receiving necessary approvals as the tail risk is longer than anticipated. That process will require a greater understanding of how long the tail could be (i.e. how quickly could we be repaid through clean energy adjustments after the moratorium period has ended)
* The higher pricing will result in higher clean energy pricing during this default scenario. As an alternative to letting the warehouse provider being repaid over time through these clean-energy adjustments, the province could voluntarily choose to purchase a term note to take out the warehouse provider
* The province could resell that note in the secondary market if that market opens
* Assuming there are other series of notes outstanding by the FE that are sold to others, the province may need to confirm whether there are consolidation concerns from being an investor in the FE (and if so, what threshold of notes would result in that consolidation risk)
* The province is not obligated to purchase notes in this scenario, this is just an option they would have at their disposal if they did not want to clean energy adjustment amounts (and hence charges to ratepayers) to increase because the default pricing
* Other options
o IESO provides the warehouse instead of the banks – note that this will likely be limited based on the size of the IESO's credit facility. If there is a prolonged period of market disruption, then this credit facility will likely fill up fast and at that point the Province will likely have to increase the facility or backstop further rebates --> essentially under a market disruption, the Province may ultimately have to backstop the funding. Based on this, it may be preferable for the Province to provide a market disruption guarantee to the short-term ABCP facilities?

Servicing Guarantee
* The substantive risk not addressed through regulation/legislation/contract so far is commingling risk
* In general, the rating agencies require daily cash remittance of any collections for non-investment grade entities unless a suitable mitigant is in place
o The investment grade test will generally need to be by the same rating agency rating the FE debt
* (E.g. if an entity is not rated by Moody's, but is rated investment grade by DBRS and S&P, and the FE debt is rated by Moody's, Moody's may not consider that entity to be investment grade and may not permit them to commingle)
* Fitch often gives an exception for this where they may allow commingling for investment grade entities even if Fitch does not rate that counterparty
o This should not be an issue from IESO perspective, but can be an issue from an LDC perspective
* The majority of the LDCs are not
* Rating individual LDCs by each of the rating agencies that rate the FE debt will be time consuming and expensive and is not a viable option
* Proposal would be for IESO or another highly rated entity to post a L/C facility to mitigate the servicing risks of the LDCs and thereby avoiding any review of the LDCs by the agenciesand avoid daily cash remittances for any LDC assessed to be non-investment grade

Sunil Adalja | Executive Director, Securitization | CIBC Capital Markets | CIBC World Markets Inc.
161 Bay St., 5th Floor, Toronto, ON M5J 2S8 | Tel: 416 594-7383 | Fax: 416 956-6220 | sunil.adalja@cibc.com <mailto:sunil.adalja@cibc.com>

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From:	Anna Strathy on behalf of Steve Orsini (MOF)
To:	Ken Kandeepan; Ronald Kwan; Andrew Bevan (OPO); Helen Angus (MOHLTC); Scott Thompson (CAB); Serge Imbrogno (ENERGY); Andrew Teliszewsky (ENERGY); Martha Greenberg (MOHLTC); Steven Davidson (MTCS); William Bromm (CAB); Boafoa Kwamena (MOI); Lynn Betzner (CAB)
Cc:	Bosco, Pina (CAB); Francesca Bungaro-Yemec (ENERGY); Martin Schlaepfer (MOF); Hillary Armstrong (ENERGY); Steen Hume (CAB); Feather, Adam (ENERGY); Betty Wilson (ENERGY); Hilary Cox (ENE); Kaili Sermat-Harding (ENERGY); Edwards, Matthew (ENERGY); Carolyn Calwell (MCSS); Evans, Karen (ENERGY); Sunita Chander (ENERGY); Talwar, Shruti (ENERGY); Ruttan, Craig (ENERGY); Tim Christie (ENERGY); Jason Pichelli (MOF); Christine Poopalapillai (MRI); Emily Marangoni (OPO); Nalasco, Adrian (ENERGY); Daniel Cayley (ENERGY); Karen Hughes (MGS); Veinot, Cindy (TBS); Gadi Mayman; Nancy Kennedy (MOHLTC); Elizabeth Mendes (MOF); Ghiassi, Ali (MOF); David McLean (MOF); Sam Lyon (ENERGY)
Subject:	FW: Ontario Fair Hydro Plan / LTEP Curve / Provincial Guarantee

-----Original Appointment-----
From: Orsini, Steve (CAB) [mailto:Steve.Orsini@ontario.ca]
Sent: Thursday, August 10, 2017 12:52 PM
To: Orsini, Steve (CAB); Andrew Bevan (OPO); Helen Angus (MOHLTC); Scott Thompson (CAB); Serge Imbrogno (ENERGY); Andrew Teliszewsky (ENERGY); Martha Greenberg (MOHLTC); Steven Davidson (MTCS); William Bromm (CAB); Boafoa Kwamena (MOI); Lynn Betzner (CAB)
Cc: Bosco, Pina (CAB); Francesca Bungaro-Yemec (ENERGY); Martin Schlaepfer (MOF); Hillary Armstrong (ENERGY); Steen Hume (CAB); Feather, Adam (ENERGY); Betty Wilson (ENERGY); Hilary Cox (ENE); Kaili Sermat-Harding (ENERGY); Edwards, Matthew (ENERGY); Carolyn Calwell (MCSS); Evans, Karen (ENERGY); Sunita Chander (ENERGY); Talwar, Shruti (ENERGY); Ruttan, Craig (ENERGY); Tim Christie (ENERGY); Jason Pichelli (MOF); Christine Poopalapillai (MRI); Emily Marangoni (OPO); Nalasco, Adrian (ENERGY); Daniel Cayley (ENERGY); Karen Hughes (MGS); Veinot, Cindy (TBS); Gadi Mayman; Nancy Kennedy (MOHLTC); Elizabeth Mendes (MOF); Ghiassi, Ali (MOF); David McLean (MOF); Sam Lyon (ENERGY)
Subject: Ontario Fair Hydro Plan / LTEP Curve / Provincial Guarantee
When: Wednesday, August 16, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Boardroom 6501, 6th Floor, Whitney Block

DMO's please forward to your respective MO's. Thank you, Pina

From: Joseph.Pau@ontario.ca on behalf of Calwell, Carolyn (ENERGY/MEDEI/MRI)
To: Scott Nelms (ENERGY); Steen Hume (CAB); Tim Christie (ENERGY); Ronald Kwan; Veinot, Cindy (TBS); Hosick, Sarah (TBS); Kim.Marshall@ieso.ca; John.S.Lee@opg.com; Hilary Cox (ENE); Tobias P. Whitfield (MOF); Nadine Petsche (MOF); Gavin He; yolusoga@torys.com; Anthony.Martinello@ieso.ca; Brad.Purkis@tdsecurities.com
Subject: FW: Ontario Fair Hydro Plan

Hi Everyone,

Please make sure your appropriate colleagues are included. If not, please inform Joseph Pau (Joseph.Pau@ontario.ca) and he will provide them with the invitation and forward their name to the Blakes security desk.

Thanks,

-----Original Appointment-----
From: Pau, Joseph (MEDG/MRIS) On Behalf Of Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 4, 2017 2:42 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY); Shear, Dan (ENERGY); Kacaba, Jennifer (ENERGY); Leslie.Wong@opg.com; 'MCAULEY Tyler -LAWDIV' (tyler.mcauley@opg.com); 'Michael.Boll@IESO.com'; JUDY.WILSON@blakes.com; Stephen.Ashbourne@blakes.com; Bryson.Stokes@blakes.com; DICKS, LINDSAY (LINDSAY.DICKS@blakes.com); Michael.Boll@IESO.ca
Cc: Mary Anne Aldred (MaryAnne.Aldred@oeb.ca); Martine.Band@ontarioenergyboard.ca; 'Martine Band'; 'Ramchandani, Rima'; 'Feldman, Michael'; 'Alan Hibben'; 'Mansoori, Nina'; 'Myers, Jonathan'; 'Hill, Krista'; 'Glenn Zacher'; 'Peter Hamilton'
Subject: Ontario Fair Hydro Plan
When: April 7, 2017 10:00 AM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 199 Bay St. - 40th Floor, Blakes

Update

This meeting has been shortened from 4:00pm to 2:00pm.

Hi Everyone,

This will be a meeting to discuss the Ontario Fair Hydro Plan (OFHP) and will include Blakes, Torys, OPG, IESO, and Ministry Counsel.

The meeting will be held at Blakes and the main contact on site will be Lindsay Dicks (416-863-4347 or Lindsay.Dicks@blakes.com). Please inform Lindsay if there will be additional people attending from your group because she will need to pass this information along to their security desk.

To the representatives from OPG and IESO, please forward this meeting invitation to your respective outside counsel for their attendance.

Any materials available for this meeting will be provided in a future update.

If you are unable to attend in person, please use the following conference call information:

Toll-free dial-in number: 1-866-633-1033
Local dial-in number: 416-212-8013
Conference ID: 3164921#

If there are any additional scheduling needs or updates, please contact Joseph Pau (416-326-1018).

Thanks,

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Gadi Mayman; Ronald Kwan; Michael Waterston (MOF); Ken Kandeepan; John Kim; Malle Hanslep (MOF)
Subject:	FW: Ontario Fair Hydro Plan
Date:	Wednesday, April 26, 2017 5:07:58 PM

FYI, I have written to Energy legal to ask about making sure that deal counsel review the draft language around the guarantee to make sure it works for the current state of the deal.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: April 26, 2017 5:06 PM
To: Rehob, James (ENERGY)
Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Ontario Fair Hydro Plan

James,

Thanks for forwarding the draft. With respect to the guarantee language, we want to make sure that it works for the transaction. Since we are not familiar with the proposed transaction, we think that it makes sense for counsel that are familiar with the deal to review the guarantee provisions in the statute to ensure that it is sufficient to give authority for the type of guarantee that is contemplated. We note that the term sheet that we have seen provides for a very broad guarantee, although we also understand that there are ongoing discussions about the scope and content of the guarantee.

Best,
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Rehob, James (ENERGY)
Sent: April 26, 2017 3:20 PM
To: Whitfield, Tobias P. (MOF)
Subject: FW: Ontario Fair Hydro Plan

Confidential/Solicitor & Client Privileged

April 26, 2017

Hi, Toby. I am pleased to attach the most recent version of the draft legislation pertaining to the electricity rate reductions and intergenerational cost transfer.

Thanks for your help on all of this, and note that this version does not include amendments to EA ss.89 and 90 (PILS amendments). Those discussions are ongoing between MOF policy, OPG/Tory's and ENERGY is awaiting those discussions to close before finalizing the legislation on these matters.

Best regards,

James

James P. H. Rehob
Senior Counsel
Ministry of the Attorney General
Legal Services Branch
MAG Civil Law Division
Ministry of Energy, Ministry of Economic Development and Growth, Ministry of Research, Innovation and Science, Ministry of Infrastructure, Accessibility Directorate of Ontario
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james.rehob@ontario.ca

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From: Gavin He
To: John Kim
Cc: Ronald Kwan
Subject: FW: Provincial Guarantee
Date: Monday, February 27, 2017 2:50:34 PM

Hi John,

FYI – Some additional considerations for the OFA/Financing Considerations slide.

Regards,
Gavin He

From: Gadi Mayman
Sent: Monday, February 27, 2017 2:34 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: Provincial Guarantee

I agree with your perspective on this. The Newfoundland guarantee for the Churchill Falls dam is a good point that I'd forgotten about.
I'm copying Ron and Gavin, as they're preparing a slide for Energy on this.

Gadi

From: Mike Manning
Sent: Monday, February 27, 2017 2:29 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>
Subject: RE: Provincial Guarantee

Just a few random thoughts:

- I would think OPG borrowing with a guarantee is a game changer. As we've seen with Newfoundland, guarantees can be expensive, and I expect this one would be too, relative to Ontario's regular borrowing costs. If it is going on the Province's balance sheet, shouldn't that be done in the most efficient way. In addition, I'm surprised the Ontario borrowing and on-lending approach doesn't have more traction as it certainly provides more cost-savings potential, and this might definitely be required.
- I'm also unclear of the benefits of OPG direct borrowing, given that it appears to be direct government policy to me, and is anyone going to think otherwise? Again I don't have the full perspective and may be missing some of the rationale.

It would be great to discuss when you have the time.

Mike

From: Gadi Mayman
Sent: Monday, February 27, 2017 12:49 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>
Subject: FW: Provincial Guarantee

Hi Mike,

Ken is familiar with what I'm asking about here, so either he or I could fill you in on more details if you'd like. The bottom line is that OPG has now determined, not surprisingly to me, that the debt that they issue to public markets for the GA smoothing option, would require a provincial guarantee. Not a full guarantee, they pointed out this morning, but just a guarantee that investors would be made whole, and have all of their costs covered, if a future government were to change the legislation under which this structure would be created. To me, that is pretty much equivalent to a full guarantee, as that's likely the only way the system fails, and investors would take on any risk.

My question is why that guarantee, and therefore the diminishment of risk to investors, is treated differently from an accounting perspective than the simpler process of us just borrowing and on-lending to them.

Please let me know if you have any questions, or would like to discuss this further.

Thanks,
Gadi

From: Gadi Mayman
Sent: Monday, February 27, 2017 12:45 PM
To: HARTWICK Ken -FINANCE <ken.hartwick@opg.com>
Cc: 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>
Subject: Provincial Guarantee

Hi Ken, we all had to rush off to our next meetings following our meeting this morning, so we didn't get a chance to have a discussion about why a Provincial guarantee of all of OPG's debt related to the trust isn't a problem for the accounting treatment that we'd need to get to in order to make the GA smoothing plan work, while direct borrowing and on-lending from the

Province would be, if it's greater than 49% of the total borrowing (actually 44% in your current model).

From a capital markets, investor and rating agency perspective, the guarantee is extremely likely to be lumped in with the rest of the Province's debt, and the guaranteed debt would be considered just as much of a provincial obligation as the rest of our debt, particularly in this case where the reason that the guarantee is needed is because investors will demand it in order to protect themselves from legislative amendments by a future government. For that reason, it could be hard to justify, from a capital markets or cost perspective, having OPG borrowing in its own name with a government guarantee, so is it possible to revisit the potential accounting treatment and determine whether, now that we've effectively moved to a guaranteed structure, we could just have the Province, through the OFA or OEFC, do all of the borrowing and on-lend to OPG? Is this something that you'd been planning to address in the accounting material that you're sending over today?

Thanks,
Gadi

From: Angie Georgakakos
To: Ronald Kwan
Subject: FW: Provincial Guarantees
Date: Tuesday, June 06, 2017 3:29:42 PM
Attachments: FHP - Guarantee term sheet high level issues list - June 2.docx

---

Hi Ron,

Fyi.

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Tuesday, June 06, 2017 3:11 PM
To: Anis Hirani <Anis.Hirani@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; stephen.ashbourne@blakes.com
Cc: Martine Bell <Martine.Bell@ofina.on.ca>; Angie Georgakakos <Angie.Georgakakos@ofina.on.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>
Subject: RE: Provincial Guarantees

In preparation for tomorrow's meeting please find attached a summary of issues with the draft term sheet, developed in conjunction with Energy Legal and based in part on our conversation with the Province's external counsel, Blakes.

Regards
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

-----Original Appointment-----
From: Anis Hirani [mailto:Anis.Hirani@ofina.on.ca]
Sent: June 2, 2017 11:36 AM
To: Anis Hirani; Manning, Mike (OFA); Yep, Carlos (OFA); Kandeepan, Ken (OFA); Kandelas, Opal (OFA); Whitfield, Tobias P. (MOF); Hanslep, Malle (MOF); Veinot, Cindy (TBS); Nelms, Scott (MOF); Montgomery, Kaitlin (MOF); Kim, John (OFA); Bruno Amara
Cc: Bell, Martine (OFA); Georgakakos, Angie (OFA)
Subject: Provincial Guarantees
When: June 7, 2017 2:00 PM-3:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Boardroom Exec - 1 Dundas Street West, Suite 1400

Attendees

Mike Manning
Carlos Yep
Ken Kandeepan
Opal Kandelas
John Kim
Bruno Amara
Ronald Kwan

MOF Legal

Malle Hanslep
Tobias Whitfield

OPCD

Cindy Veinot

Energy

Scott Nelms
Kaitlin Montgomery

Contact: Anis Hirani (416) 325-5890

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Confidential and Privileged Legal Advice

The below note is a summary of preliminary concerns with the draft term sheet for a Provincial Support Agreement (the "Guarantee") raised by MOF LSB, Ministry of Energy LSB and the Province's outside counsel, Blakes. The concerns are grouped in categories for convenience.

Beneficiaries – The Guarantee's description of proposed beneficiaries is very broad. The Guarantee provides that the legal beneficiary is the Indenture Trustee under the Master Trust Indenture on behalf of itself and all persons that have claims against the Financing Entity secured under the master trust indenture. This would include persons ranging from the Financial Services Manager (OPG) to holders of various types of debt and hedge counterparties. Because we have not seen a term sheet for the Master Trust Indenture, we cannot be sure of the actual extent of beneficiaries.

- Need to clarify which obligations the Province is being requested to guarantee and under what various agreements to determine scope and limit of guarantee.
- Should the subordinated notes (held by OPG) be guaranteed?
- Should the beneficiaries be limited to holders of the notes issued by the financing entity?
- Is there a term sheet for the proposed financing to be issued by the Financing Entity?
- Is there a request for a guarantee of payment on other back-up or ancillary borrowing and obligations other than those issued in the market?
- Is there a draft of the Master Trust Indenture?

Scope of Financial Guarantee – The proposed Guarantee is not restricted to any particular debt offering or related transaction. Rather, it is currently framed as a "program-wide" guarantee that encompasses any and all future transactions undertaken by OPG in connection with this initiative. This is too broad and the Guarantee should be limited to individual transactions and specified creditors, negotiated at the time of each transaction.

Term of Guarantee – Currently the Guarantee continues for one year beyond the last obligation to be repaid. This does not seem necessary and it should end when the last repayment is made.

Performance Guarantee – The province does not typically provide performance guarantees. Blakes noted that performance guarantees are quite typical in structured finance offerings and that they are generally regarded as being less onerous than an

outright payment guarantee (because the guarantor is only guaranteeing the performance of certain specified obligations, as opposed to the payment of the underlying obligation). Ultimately the performance guarantee may result in a payment if the Province cannot compel performance.

Usually a performance guarantee is given by a parent, where some of the obligations rely on the actions of subsidiaries. However, under the current structure of the Term Sheet, Ontario would be guaranteeing the performance obligations of Local Distribution Companies (LDCs) directly and since these are not akin to subsidiaries and the Province has very little authority to compel performance by LDCs, this type of guarantee could expose the Province to some difficulty if an LDC ever failed to perform. Therefore, it would be appropriate that the performance guarantee should be limited to the performance of the Independent Electricity System Operator (IESO). The IESO, on the other hand, may have direct relationships with the LDCs, and it may be more appropriate for some type of commitment for the performance of the LDCs to be made by the IESO.

Payment Guarantee – There are three triggers of this part of the guarantee: (1) changing the legislation or regulations to undermine the future payment stream constituting the regulatory asset; (2) the legislation and/or the fair hydro plan being deemed by a court to be unconstitutional or unenforceable; and (3) a liquidity problem that makes it impossible to continue financing the structure or to refinance maturing debt.

With respect to the changes in law, because the Fair Hydro Plan is modelled on some US transactions, a concern has arisen that there is no legal barrier in Canada to changing the law or passing a law that undermines the value of the regulatory asset and the repayment of the obligations. Therefore, it may be that a payment guarantee triggered by adverse legislative action would go a long way to reassure potential investors and he thought that this kind of assurance (at least in some form) will be necessary to support any transaction. However, the kinds of future legislative actions that would trigger a Payment Guarantee Event are framed in vague terms. This could mean that a Beneficiary of the guarantee would try to trigger the guarantee even where there was no repayment failure, but only upon a theoretical diminution in the value of the regulatory asset or some kind of timing issue that delays payment, but not in a material way that undermines the repayment capacity of the Financing Entity.

The second trigger, arising from a finding that the structure is unconstitutional or otherwise unenforceable at law, should also be narrowed to only apply to a “final, non-appealable decision”, otherwise a lower court ruling that is not upheld and does not

unwind the structure could trigger a claim on the guarantee even where there is no risk of payment default.

Similarly, Blakes suggested that the concept of "market disruption" in the Term Sheet is also too vague and would unreasonably expose the government to risks around future refinancing transactions (*i.e.*, by effectively requiring Ontario to be the "standby purchaser" of any securities in the case of a lack of liquidity in the financial markets). This is the type of risk that is probably best addressed at the time such a risk arises, as it is impossible to predict the context and effect of such an event.

The put option is of particular concern because the current model might allow noteholders to require the province to buy back their investments in response to regulatory amendments affecting the value of their investments in only incidental or immaterial ways. Blakes cautioned that we need to guard against providing a form of assurance that enables U.S. hedge funds to hold the government hostage for the next 30 years.

Further action items and questions:

- **Time Lines and Communication with OPG** – We need to understand where this Guarantee fits into the transaction and find out why it is moving forward at this early stage. The Province needs to communicate to OPG that the Province does not agree with this draft term sheet and is not implied to be something the Province is agreeing to at such a preliminary stage.

- **Market Demands** –What precisely is the market going to demand to support the transaction? The Province's interest would seem to be in providing the most limited guarantee that is both (i) necessary to support the transaction; and (ii) ensures the highest value for both ratepayers and taxpayers.

From: Ronald Kwan
To: John Kim
Subject: FW: Provincial Support Agreement
Date: Thursday, July 27, 2017 9:58:40 AM

Hi John,

A heads up.

Ron

From: Gadi Mayman
Sent: July-27-17 09:09
To: Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

From: Ronald Kwan
To: John Kim
Subject: FW: Provincial Support Agreement
Date: Thursday, July 27, 2017 11:47:03 AM

FYI John.

Ron

From: Gadi Mayman
Sent: July-27-17 10:55
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Re: Provincial Support Agreement

Doesn't look like Cindy can make that time either, so there are too many people that should be involved in this discussion with OPG that can't make it. I'd suggest that we leave it in the hands of everyone who is going to be around next week, and then I can weigh in when I get back. I think you're all aware of the firm direction that I've left with the banks and OPG, without much room to move, even though I'm guessing the banks are going to try to come back with a structure that attempts to transfer as much risk on to us as possible.

Gadi

On Jul 27, 2017, at 10:10 AM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:

> I can't tomorrow, but keep going without me. I will catch up next week. I would suggest including Tom McKinlay from Energy, so they are kept in the loop on progress.
>
> ---
>
> **From:** Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
> **Sent:** July 27, 2017 9:15 AM
> **To:** Mayman, Gadi (OFA)
> **Cc:** Strathy, Anna (OFA); Gavaris, Hresa (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Kwan, Ronald (OFA); Nelms, Scott (MOF)
> **Subject:** RE: Provincial Support Agreement
>
> Sorry Gadi, I have booked tomorrow off as a vacation day so will not be able to make it.
>
> Ken K
>
> ---
>
> **From:** Gadi Mayman
> **Sent:** Thursday, July 27, 2017 9:09 AM
> **To:** Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>

Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

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From:	Ronald Kwan
To:	John Kim; Bruno Amara
Cc:	Gavin He
Subject:	FW: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Wednesday, June 21, 2017 2:01:04 PM
Attachments:	23148306-v6-Term Sheet - Provincial Support Agreement - May 12.docx 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.pdf

---

Hi,

Comments?

Ron

From: Anna Strathy
Sent: June-21-17 14:00
To: Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'stephen.ashbourne@blakes.com' <stephen.ashbourne@blakes.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; 'Susan.Thompson@tdsecurities.com' <Susan.Thompson@tdsecurities.com>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>; 'sarah.hosick@ontario.ca' <sarah.hosick@ontario.ca>
Cc: Laing, Mark <Mark.Laing@tdsecurities.com>
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Good afternoon,

Please find attached, two versions of the term sheet to support tomorrow's discussion at 10am: a clean version and a mark-up showing changes from the original sent by OPG.

Thank you, Anna

Anna Strathy

Special Policy Advisor to CEO

Ontario Financing Authority

1 Dundas Street West, 14th Floor

416.325.8032 | anna.strathy@ofina.on.ca

-----Original Appointment-----
From: Hresa Gavaris
Sent: Tuesday, June 20, 2017 3:14 PM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); 'stephen.ashbourne@blakes.com'; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); 'Susan.Thompson@tdsecurities.com'; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'
Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Performance Guarantees	
Performance Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 Performance 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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Performance Guarantee:	Pursuant to a Performance Guarantee, the Performance 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 Performance Guarantee is held to be unenforceable against the Performance Guarantor, the Performance Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
<u>Indemnity</u>	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.

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 (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	The 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.
Approval Requirement:	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.
Limits under Indemnity:	Under no circumstances shall the Indemnitor be obligated to indemnify any Beneficiary for special or punitive damages, or for loss of profits.
<u>Undertakings regarding Certain Mismatches</u>	
Avoidance of Mismatches	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 avoid any Mismatch.

Possible Undertaking to Fund Mismatches	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 avoid 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 avoid the Mismatch. Any such undertaking may only be given 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 an inability to refinance 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.
<u>Documentation</u>	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance 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 Performance Guarantor or the Indemnitor, or any agent or representative of the Performance 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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Performance Guarantees	
Performance Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 Performance Guarantee to its creditors and contractual counterparties, including any indenture trustee acting on behalf of itself and ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

~~Term:~~	~~The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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:	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Performance Guarantee, the Performance Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, 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 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Performance Guarantee is held to be unenforceable against the Performance Guarantor, the ~~Provincial Support Agreement~~Performance Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of

[1] ~~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.~~

	any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.
~~Payment Guarantee Event~~Indemnity of the Province:	~~A Payment Guarantee Event will occur if~~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 (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
~~Payment Guarantee~~Term:	~~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.~~ The 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.
Approval Requirement:	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.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the ~~Guarantor~~Indemnitor be obligated to indemnify any Beneficiary for special or punitive damages, or for 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Avoidance of Mismatches**	~~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~~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 avoid any Mismatch.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 avoid 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 avoid the Mismatch. Any such undertaking may only be given 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 an inability to refinance 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.
~~Conditions Precedent to Closing:~~Documentation	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.[2]~~
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance Guarantor ~~is~~and the Indemnitor will be bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Performance Guarantor or ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Performance Guarantor or the Indemnitor, in connection with the ~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

Document comparison by Workshare Compare on Monday, June 19, 2017 8:13:03 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/1
Description	TOR_2528-#23148306-v1-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/6
Description	TOR_2528-#23148306-v6-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Rendering set	Standard

Legend:	
Insertion	
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Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	89
Deletions	77
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	166

From:	John Kim
To:	Steen Hume (CAB)
Cc:	Ronald Kwan; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Scott Nelms (ENERGY); Carolyn Calwell (MCSS); Gadi Mayman; Cheryl Carson (ENERGY)
Subject:	FW: Provincial Support Agreement update
Date:	Tuesday, September 05, 2017 6:07:41 PM
Attachments:	Fair Hydro - August Term Sheet v1_SharedClean.doc

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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.

From: John Kim
To: Ronald Kwan
Subject: FW: Provincial Support Agreement update
Date: Tuesday, September 05, 2017 5:18:27 PM
Attachments: Fair Hydro - August Term Sheet v1.doc

With cc: to you, Malle, Toby, Scott N., Carolyn Calwell and Gadi. Also, Cheryl Carson is the acting Legal Director this week, I understand from Adrian.

I was going to forward Toby's original email.

I am sending this for your review. Let me know pls. if it looks okay.

Hi Steen,

I'm sending this on behalf of various parts of the OFA that are working on the Provincial guarantee / support on behalf of OPG. We would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet (excluding the note attached to the draft term sheet) with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG, with their input. Our understanding is that OPG would initiate their discussions with ratings agencies in the coming days and that the approval for the guarantee, requiring an OIC, would proceed later this month.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
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tobias.whitfield@ontario.ca
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Ministry of the Attorney General
Briefing Note
Civil Law Division
Legal Services Branch
ENERGY/MEDG/MRIS/MOI/ADO

FAIR HYDRO PLAN – PROVINCIAL GUARANTEE

A. Issue

- Provincial Support Agreement Term Sheet

B. Background

- Under the terms of the proposed *Ontario Fair Hydro Plan Act, 2017* (the "Act"),[1] it is anticipated that the Ontario Power Generation ("OPG") will establish a subsidiary entity (the "Financing Entity") that will undertake a public debt offering to finance the implementation of the Ontario Fair Hydro Plan (the "Fair Hydro Plan").

- The Ontario Finance Authority (the "OFA") is leading the negotiation of a term sheet with OPG that would outline the basis upon which the government of Ontario ("Ontario") would provide financial assurance to support such a debt offering.

- OPG has advised that a term sheet codifying Ontario's commitment, at least at a high level, will be necessary to support OPG's pending discussions with credit rating agencies, as well as the anticipated triple-A rating of the proposed debt offering.

- OPG provided the OFA with a draft of a proposed term sheet dated May 12, 2017 (the "May Term Sheet"). The May Term Sheet included a number of features that were unacceptable to Ontario, including, most notably, a performance guarantee covering obligations of the Independent Electricity System Operator (the "IESO") and a liquidity guarantee that would be triggered in the case of financial market disruption.

- In a meeting on July 12, 2017, the OFA communicated Ontario's concerns about the May Term Sheet and indicated that the province would be willing to provide financial assurance to prospective investors in respect of only two kinds of risk:

    - the possibility of future legislative by the government of Ontario compromising the economic rights of investors; and

[1] S.O. 2017, c. 16, Sched. 1.

- the possibility that the Fair Hydro Plan is ultimately found to be invalid from a constitutional perspective by a court of competent jurisdiction.

- The OFA accepted that it was fair and reasonable for the province to provide a guarantee in respect of these two risks because they would be a consequence of the government`s past and future policy decisions. However, the OFA indicated that investors would need to assume the risk associated with other aspects of the Fair Hydro Plan and the risk of future market disruption.

C. Current Status

- The OPG took Ontario's position back to the investment dealers and worked with them to develop a revised term sheet that better reflected this more limited form of provincial guarantee (the "August Term Sheet").

- Ontario's external counsel (Blake, Cassels & Graydon LLP ("Blakes")) provided a mark-up of the August Term Sheet identifying a number of continuing concerns arising out of the draft provisions and to propose further amendments intended to address those concerns.

- On August 22, 2017, counsel from the Ministry of Energy, the Ministry of Finance ("MOF-LSB") and Blakes met with representatives from the OFA to discuss a number the issues identified by Blakes, as well as a number of further concerns identified by counsel in MOF-LSB.

D. Analysis

Purpose of Term Sheet

- As a preliminary matter, it is important to recognize that the purpose of the proposed Term Sheet is not to create enforceable rights or obligations. Section 5(3) of the Act makes it clear that any guarantee provided by the province must be agreed to by the Minister of Energy and the Minister of Finance (acting together) as authorized by order of the Lieutenant Governor in Council (the "LGIC"). The LGIC has not yet made an OIC authorizing the responsible Ministers to enter into any guarantee and therefore the Ministers do not yet have any legal authority to do so.

- Against this backdrop, it is clear that the purpose of the Term Sheet is to outline, in a general way, a high level understanding of the type of financial assurance that the province might be willing to provide to prospective investors in appropriate circumstances. The actual terms and conditions of any future assurance agreement entered into by Ontario will need to be fully negotiated in the context of a specific transaction and would necessarily be subject to LGIC and Ministerial approval.

Continuing Legal Concerns

- Attached to this briefing note as **Appendix "A"** is a revised draft of the August Term Sheet reflecting the consolidated legal comments of Blakes, MOF-LSB and ENE-LSB. The revisions are broadly intended to address the following concerns:

  - **Title** – Blakes is of the view that the proposed provincial assurance agreement is more accurately characterized as an indemnity arrangement, than a guarantee. There are highly technical reasons underlying this position and we note that OPG's external counsel (Torys LLP) does not agree with this concern. Rather than engaging in this debate, we have simply re-titled the proposed agreement as a "Change of Law Assumption Agreement," which more specifically reflects the substantive nature of the assurances that the province intends to provide.

  - **Preamble** – We have added a provision to the preamble to more explicitly confirm that the arrangements contemplated in the Term Sheet are subject to further government approvals and that the document is not intended to create any legally binding obligations.

  - **Beneficiaries** – Torys has indicated that the provincial guarantee must be given directly in favour of the Indenture Trustee, rather than the Financing Entity. The purpose of this change is to ensure that bondholders would have a direct remedy against Ontario. We have revised the draft Term Sheet to reflect this intention on the basis that it would not materially increase the scope of Ontario's legal or financial liability under the guarantee. However, we note that one consequence of this change is that Ontario would be considered a separate issuer for U.S. securities law purposes.

  - **Specified Claims** – The August Term Sheet purported to extend to all of the "rights and interests of the Financing Entity", including, but not limited to, the right to receive the payments contemplated under the Fair Hydro Plan. The OFA has previously indicated to OPG that the province is only willing to be responsible for the payment of *principal* and *interest* on Senior Debt Obligations. This would exclude other costs and fees incurred by the Financing Entity related to the Fair Hydro program such as payments to service providers (*e.g.*, law firms, accountants) and other types of claims that might be advanced by Beneficiaries in connection with the proposed guarantee. Limiting the province's liability to "senior" debt holders excludes OPG (who is a subordinated debt holder) on the basis that the province has already funded OPG's contribution by way of a liquidity injection. We have revised the Term Sheet to reflect these more limited concepts (primarily by way of a new definition of "Specified Claims").

- **Materiality Threshold** – The August Term Sheet included a series of "Guarantee Activation Events" that would trigger Ontario's obligations under the provincial assurance agreement. Although the enumerated list of events substantially reflected the limited form of guarantee proposed by the OFA, the August Term Sheet removed the "materiality" threshold for guaranteed claims. The intent of this change is to make the province liable in any case where the obligations of bondholders are not paid in full. However, this strict form of guarantee would expose the province to any unreasonable degree of risk. Beneficiaries could potentially seek to trigger the guarantee in response to routine legislative amendments affecting the value of their investment interest only indirectly or in insignificant ways (*e.g.*, a merely theoretical diminution in the value of the regulatory asset or some kind of timing issue that modestly delays payment). For this reason, we have reintroduced the concept of "materiality" in the list of Guarantee Activation Events (now described as "Assumption Events").

- **Right of Subrogation** – We have added a provision to the Term Sheet making it clear that Ontario will be subrogated to the rights of Beneficiaries who receive payments under the guarantee. This ensures that the province will be entitled to pursue any civil remedies against third parties that may have been available to the Beneficiary in respect of such amounts.

- **"Assumption" of Obligations** – The provisions of the August Term Sheet stated that, upon the occurrence of a Guarantee Activation Event, Ontario "assume and pay" all of the obligations of the Financing Entity. This language seems to intend that the province would directly assume all of the Financing Entities obligations to the Indenture Trustee and bondholders. The OFA has previously indicated that Ontario is only willing to commit to pay the principal and interest obligations of the Financing Entity as they come due, and not to replace the Financing Entity and become directly liable for all its obligations (except at its own option as discussed below). We have revised the Term Sheet to reflect this more limited commitment.

- **Optional Replacement** – We have added to the Term Sheet an optional right on the part of the province to assume all of the rights and liabilities of the Financing Entity, without the need for any further consent or approval of the Indenture Trustee. This would provide Ontario with greater flexibility in determining how to deal with any claims arising under the guarantee, without imposing this more onerous obligation on the province.

- **Approval Requirements** – We have revised the approval requirement section of the Term Sheet to modestly strengthen Ontario's rights associated with the process for approving future transactions that will be covered by the provincial assurance agreement.

- **Warehousing/Commingling Risks** – The August Term Sheet included a series of provisions dealing with ongoing business concerns associated with debt warehousing risks and LDC credit rating commingling. As far as we are aware, the arrangements contemplated in these sections have not been agreed to by Ontario and it is not helpful to link them in this way to the ongoing negotiations around the proposed guarantee. For this reason, we have deleted them from the Term Sheet.

E. Recommendations and Next Steps

- MOF-LSB will be arranging a meeting with the OFA as early as practicable next week to discuss the communication of these comments and the revised draft Term Sheet to OPG.

Date: August 31, 2017

Prepared by: Tom McKinlay, General Counsel
Legal Services Branch, Ministry of Energy
416-212-5766

Approved by: Carolyn Calwell, Director
Legal Services Branch, Ministry of Energy
416-212-8392

APPENDIX "A"

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.*

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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.

From: John Kim
To: Ronald Kwan
Subject: FW: Provincial Support Agreement update
Date: Tuesday, September 05, 2017 4:45:32 PM

Fyi.

From: John Kim
Sent: Tuesday, September 05, 2017 11:19 AM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

Hi Toby,

How about we raise that at the meeting this afternoon?

I am thinking that CEO's office will be leading that effort potentially but we will see. I am happy to coordinate it too.

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Tuesday, September 05, 2017 11:02 AM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

John – Energy have been asking me about scheduling a meeting with OFA, Finance, Energy and perhaps OPCD on this. I am not sure if you would be dealing with that, but I wonder if we should get something in the calendar perhaps even as early as tomorrow in order to move this forward.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: August 31, 2017 4:18 PM
To: Kim, John (OFA)
Cc: Bruno Amara
Subject: RE: Provincial Support Agreement update

I don't believe that this version has been shared with them yet.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 31, 2017 4:03 PM
To: Whitfield, Tobias P. (MOF)
Cc: Bruno Amara
Subject: RE: Provincial Support Agreement update

One other question….this hasn't been shared with OPCD, right?

From: John Kim
Sent: Thursday, August 31, 2017 3:34 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

Ok, thanks.

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 3:33 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

John – I think it is fine to schedule the meeting to discuss the changes and what our priorities are. It expect that we will also have to meet with a larger group including Energy staff and legal as well as our outside counsel.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 31, 2017 3:31 PM
To: Whitfield, Tobias P. (MOF)
Cc: Bruno Amara
Subject: RE: Provincial Support Agreement update

Ok, thanks. I booked the meeting for Tuesday as suggested by Mike. I got an out of office msg from Malle till Wednesday. Is that okay with you? Mike's view was to get moving as soon as possible on this.

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 3:30 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

I don't know how far up the briefing process this has gone, but I doubt very far – this document was just finalized on the legal side this morning.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 31, 2017 3:29 PM
To: Whitfield, Tobias P. (MOF)
Cc: Bruno Amara
Subject: RE: Provincial Support Agreement update

Hi Toby,

Would you know how far up Energy's line this has been signed off by? DM, for example?

John

From: John Kim
Sent: Thursday, August 31, 2017 2:58 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Provincial Support Agreement update

Thanks Toby. Will review and share with the rest of the OFA.

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
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From:	John Kim
To:	Veinot, Cindy (TBS)
Cc:	Ronald Kwan; Ken Kandeepan; John Psinas; Gadi Mayman; "Hosick, Sarah (TBS)"; Mark Donaldson (MOF)
Subject:	FW: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 5:21:06 PM
Attachments:	Fair Hydro - August Term Sheet v1.doc

Hi Cindy, Mark,

Ron and Ken are both away this week so I'm sending this at Gadi's request. As you will recall from the implementation meeting this morning, FHP-related bond issues by OPG FE will require a Provincial support to make it financeable.

The attached note by MOF Legal and Energy Legal staff [still draft for discussion purpose] would provide you with a sense of where the term sheet discussions currently are. It is possible that OPG may require more support than envisioned in the attached draft, which would be based on factors such as financeability, etc.

Apologies for the request just before your vacation but could you let us know if OPCD would have any concerns?

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

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Toby

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Ministry of the Attorney General
Briefing Note
Civil Law Division
Legal Services Branch
ENERGY/MEDG/MRIS/MOI/ADO

FAIR HYDRO PLAN – PROVINCIAL GUARANTEE

A. Issue

- Provincial Support Agreement Term Sheet

B. Background

- Under the terms of the proposed *Ontario Fair Hydro Plan Act, 2017* (the "Act"),[1] it is anticipated that the Ontario Power Generation ("OPG") will establish a subsidiary entity (the "Financing Entity") that will undertake a public debt offering to finance the implementation of the Ontario Fair Hydro Plan (the "Fair Hydro Plan").

- The Ontario Finance Authority (the "OFA") is leading the negotiation of a term sheet with OPG that would outline the basis upon which the government of Ontario ("Ontario") would provide financial assurance to support such a debt offering.

- OPG has advised that a term sheet codifying Ontario's commitment, at least at a high level, will be necessary to support OPG's pending discussions with credit rating agencies, as well as the anticipated triple-A rating of the proposed debt offering.

- OPG provided the OFA with a draft of a proposed term sheet dated May 12, 2017 (the "May Term Sheet"). The May Term Sheet included a number of features that were unacceptable to Ontario, including, most notably, a performance guarantee covering obligations of the Independent Electricity System Operator (the "IESO") and a liquidity guarantee that would be triggered in the case of financial market disruption.

- In a meeting on July 12, 2017, the OFA communicated Ontario's concerns about the May Term Sheet and indicated that the province would be willing to provide financial assurance to prospective investors in respect of only two kinds of risk:

    - the possibility of future legislative by the government of Ontario compromising the economic rights of investors; and

[1] S.O. 2017, c. 16, Sched. 1.

- the possibility that the Fair Hydro Plan is ultimately found to be invalid from a constitutional perspective by a court of competent jurisdiction.

- The OFA accepted that it was fair and reasonable for the province to provide a guarantee in respect of these two risks because they would be a consequence of the government`s past and future policy decisions. However, the OFA indicated that investors would need to assume the risk associated with other aspects of the Fair Hydro Plan and the risk of future market disruption.

C. Current Status

- The OPG took Ontario's position back to the investment dealers and worked with them to develop a revised term sheet that better reflected this more limited form of provincial guarantee (the "August Term Sheet").

- Ontario's external counsel (Blake, Cassels & Graydon LLP ("Blakes")) provided a mark-up of the August Term Sheet identifying a number of continuing concerns arising out of the draft provisions and to propose further amendments intended to address those concerns.

- On August 22, 2017, counsel from the Ministry of Energy, the Ministry of Finance ("MOF-LSB") and Blakes met with representatives from the OFA to discuss a number the issues identified by Blakes, as well as a number of further concerns identified by counsel in MOF-LSB.

D. Analysis

Purpose of Term Sheet

- As a preliminary matter, it is important to recognize that the purpose of the proposed Term Sheet is not to create enforceable rights or obligations. Section 5(3) of the Act makes it clear that any guarantee provided by the province must be agreed to by the Minister of Energy and the Minister of Finance (acting together) as authorized by order of the Lieutenant Governor in Council (the "LGIC"). The LGIC has not yet made an OIC authorizing the responsible Ministers to enter into any guarantee and therefore the Ministers do not yet have any legal authority to do so.

- Against this backdrop, it is clear that the purpose of the Term Sheet is to outline, in a general way, a high level understanding of the type of financial assurance that the province might be willing to provide to prospective investors in appropriate circumstances. The actual terms and conditions of any future assurance agreement entered into by Ontario will need to be fully negotiated in the context of a specific transaction and would necessarily be subject to LGIC and Ministerial approval.

Continuing Legal Concerns

- Attached to this briefing note as **Appendix "A"** is a revised draft of the August Term Sheet reflecting the consolidated legal comments of Blakes, MOF-LSB and ENE-LSB. The revisions are broadly intended to address the following concerns:

  - **Title** – Blakes is of the view that the proposed provincial assurance agreement is more accurately characterized as an indemnity arrangement, than a guarantee. There are highly technical reasons underlying this position and we note that OPG's external counsel (Torys LLP) does not agree with this concern. Rather than engaging in this debate, we have simply re-titled the proposed agreement as a "Change of Law Assumption Agreement," which more specifically reflects the substantive nature of the assurances that the province intends to provide.

  - **Preamble** – We have added a provision to the preamble to more explicitly confirm that the arrangements contemplated in the Term Sheet are subject to further government approvals and that the document is not intended to create any legally binding obligations.

  - **Beneficiaries** – Torys has indicated that the provincial guarantee must be given directly in favour of the Indenture Trustee, rather than the Financing Entity. The purpose of this change is to ensure that bondholders would have a direct remedy against Ontario. We have revised the draft Term Sheet to reflect this intention on the basis that it would not materially increase the scope of Ontario's legal or financial liability under the guarantee. However, we note that one consequence of this change is that Ontario would be considered a separate issuer for U.S. securities law purposes.

  - **Specified Claims** – The August Term Sheet purported to extend to all of the "rights and interests of the Financing Entity", including, but not limited to, the right to receive the payments contemplated under the Fair Hydro Plan. The OFA has previously indicated to OPG that the province is only willing to be responsible for the payment of *principal* and *interest* on Senior Debt Obligations. This would exclude other costs and fees incurred by the Financing Entity related to the Fair Hydro program such as payments to service providers (*e.g.*, law firms, accountants) and other types of claims that might be advanced by Beneficiaries in connection with the proposed guarantee. Limiting the province's liability to "senior" debt holders excludes OPG (who is a subordinated debt holder) on the basis that the province has already funded OPG's contribution by way of a liquidity injection. We have revised the Term Sheet to reflect these more limited concepts (primarily by way of a new definition of "Specified Claims").

- **Materiality Threshold** – The August Term Sheet included a series of "Guarantee Activation Events" that would trigger Ontario's obligations under the provincial assurance agreement. Although the enumerated list of events substantially reflected the limited form of guarantee proposed by the OFA, the August Term Sheet removed the "materiality" threshold for guaranteed claims. The intent of this change is to make the province liable in any case where the obligations of bondholders are not paid in full. However, this strict form of guarantee would expose the province to any unreasonable degree of risk. Beneficiaries could potentially seek to trigger the guarantee in response to routine legislative amendments affecting the value of their investment interest only indirectly or in insignificant ways (*e.g.*, a merely theoretical diminution in the value of the regulatory asset or some kind of timing issue that modestly delays payment). For this reason, we have reintroduced the concept of "materiality" in the list of Guarantee Activation Events (now described as "Assumption Events").

- **Right of Subrogation** – We have added a provision to the Term Sheet making it clear that Ontario will be subrogated to the rights of Beneficiaries who receive payments under the guarantee. This ensures that the province will be entitled to pursue any civil remedies against third parties that may have been available to the Beneficiary in respect of such amounts.

- **"Assumption" of Obligations** – The provisions of the August Term Sheet stated that, upon the occurrence of a Guarantee Activation Event, Ontario "assume and pay" all of the obligations of the Financing Entity. This language seems to intend that the province would directly assume all of the Financing Entities obligations to the Indenture Trustee and bondholders. The OFA has previously indicated that Ontario is only willing to commit to pay the principal and interest obligations of the Financing Entity as they come due, and not to replace the Financing Entity and become directly liable for all its obligations (except at its own option as discussed below). We have revised the Term Sheet to reflect this more limited commitment.

- **Optional Replacement** – We have added to the Term Sheet an optional right on the part of the province to assume all of the rights and liabilities of the Financing Entity, without the need for any further consent or approval of the Indenture Trustee. This would provide Ontario with greater flexibility in determining how to deal with any claims arising under the guarantee, without imposing this more onerous obligation on the province.

- **Approval Requirements** – We have revised the approval requirement section of the Term Sheet to modestly strengthen Ontario's rights associated with the process for approving future transactions that will be covered by the provincial assurance agreement.

- **Warehousing/Commingling Risks** – The August Term Sheet included a series of provisions dealing with ongoing business concerns associated with debt warehousing risks and LDC credit rating commingling. As far as we are aware, the arrangements contemplated in these sections have not been agreed to by Ontario and it is not helpful to link them in this way to the ongoing negotiations around the proposed guarantee. For this reason, we have deleted them from the Term Sheet.

E. Recommendations and Next Steps

- MOF-LSB will be arranging a meeting with the OFA as early as practicable next week to discuss the communication of these comments and the revised draft Term Sheet to OPG.

Date: August 31, 2017

Prepared by: Tom McKinlay, General Counsel
Legal Services Branch, Ministry of Energy
416-212-5766

Approved by: Carolyn Calwell, Director
Legal Services Branch, Ministry of Energy
416-212-8392

APPENDIX "A"

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.

From: John Kim
To: Ronald Kwan
Subject: FW: Provincial Support Agreement update
Date: Thursday, August 31, 2017 4:18:02 PM

Fyi.

In case you're checking emails, I have a question for you…..from the implementation meeting this morning, I learned that Cindy will be away for 2 weeks after this week. Given Gadi's question below about checking OPCD on the accounting, should someone ask OPCD on the accounting aspect sooner rather than later vis-à-vis the support agreement? This is accounting so I am reluctant to step in.

From: John Kim
Sent: Thursday, August 31, 2017 3:59 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

Hi Gadi,

Toby mentioned that the document was just finalized this morning, likely meaning that other than the various legal staff involved, not widely shared. We will need to start involving OPCD and others.

Mike gave me a call that he had a quick chat with John Lee at OPG and that OPG may be open to the proposed direction but TBD.

Thanks,

John

From: Gadi Mayman
Sent: Thursday, August 31, 2017 3:47 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Provincial Support Agreement update

Thanks, John. Do you know if OPCD is comfortable with the revisions made by the lawyers, and if they are OK with it from an accounting perspective, do we know whether OPG will find this satisfactory for their bankers and the rating agencies?

Thanks again,
Gadi

From: John Kim

Sent: Thursday, August 31, 2017 3:36 PM
To: Gadi Mayman
Subject: FW: Provincial Support Agreement update

Fyi.

From: John Kim
Sent: Thursday, August 31, 2017 2:52 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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Hi,

Pls. see attached note and the revised term sheet per MOF Legal, Energy Legal and Blake's. I believe the note is quite clear and self-explanatory. It was indicated at this morning's implementation meeting that things are moving along for September TB/MBC approval.

As suggested by MOF Legal, I am happy to coordinate a meeting for Wednesday when everyone (hopefully) is back and has had time to review.

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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
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Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From:	John Kim
To:	Mike Manning; James Devine; Carlos Yep; John Psinas
Cc:	Ronald Kwan; Ken Kandeepan; Usman Zahid; Anna Strathy
Subject:	FW: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 2:52:17 PM
Attachments:	Fair Hydro - August Term Sheet v1.doc

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- OPG has advised that a term sheet codifying Ontario's commitment, at least at a high level, will be necessary to support OPG's pending discussions with credit rating agencies, as well as the anticipated triple-A rating of the proposed debt offering.

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- In a meeting on July 12, 2017, the OFA communicated Ontario's concerns about the May Term Sheet and indicated that the province would be willing to provide financial assurance to prospective investors in respect of only two kinds of risk:

    - the possibility of future legislative by the government of Ontario compromising the economic rights of investors; and

[1] S.O. 2017, c. 16, Sched. 1.

- the possibility that the Fair Hydro Plan is ultimately found to be invalid from a constitutional perspective by a court of competent jurisdiction.

- The OFA accepted that it was fair and reasonable for the province to provide a guarantee in respect of these two risks because they would be a consequence of the government`s past and future policy decisions. However, the OFA indicated that investors would need to assume the risk associated with other aspects of the Fair Hydro Plan and the risk of future market disruption.

C. Current Status

- The OPG took Ontario's position back to the investment dealers and worked with them to develop a revised term sheet that better reflected this more limited form of provincial guarantee (the "August Term Sheet").

- Ontario's external counsel (Blake, Cassels & Graydon LLP ("Blakes")) provided a mark-up of the August Term Sheet identifying a number of continuing concerns arising out of the draft provisions and to propose further amendments intended to address those concerns.

- On August 22, 2017, counsel from the Ministry of Energy, the Ministry of Finance ("MOF-LSB") and Blakes met with representatives from the OFA to discuss a number the issues identified by Blakes, as well as a number of further concerns identified by counsel in MOF-LSB.

D. Analysis

Purpose of Term Sheet

- As a preliminary matter, it is important to recognize that the purpose of the proposed Term Sheet is not to create enforceable rights or obligations. Section 5(3) of the Act makes it clear that any guarantee provided by the province must be agreed to by the Minister of Energy and the Minister of Finance (acting together) as authorized by order of the Lieutenant Governor in Council (the "LGIC"). The LGIC has not yet made an OIC authorizing the responsible Ministers to enter into any guarantee and therefore the Ministers do not yet have any legal authority to do so.

- Against this backdrop, it is clear that the purpose of the Term Sheet is to outline, in a general way, a high level understanding of the type of financial assurance that the province might be willing to provide to prospective investors in appropriate circumstances. The actual terms and conditions of any future assurance agreement entered into by Ontario will need to be fully negotiated in the context of a specific transaction and would necessarily be subject to LGIC and Ministerial approval.

Continuing Legal Concerns

- Attached to this briefing note as **Appendix "A"** is a revised draft of the August Term Sheet reflecting the consolidated legal comments of Blakes, MOF-LSB and ENE-LSB. The revisions are broadly intended to address the following concerns:

  - **Title** – Blakes is of the view that the proposed provincial assurance agreement is more accurately characterized as an indemnity arrangement, than a guarantee. There are highly technical reasons underlying this position and we note that OPG's external counsel (Torys LLP) does not agree with this concern. Rather than engaging in this debate, we have simply re-titled the proposed agreement as a "Change of Law Assumption Agreement," which more specifically reflects the substantive nature of the assurances that the province intends to provide.

  - **Preamble** – We have added a provision to the preamble to more explicitly confirm that the arrangements contemplated in the Term Sheet are subject to further government approvals and that the document is not intended to create any legally binding obligations.

  - **Beneficiaries** – Torys has indicated that the provincial guarantee must be given directly in favour of the Indenture Trustee, rather than the Financing Entity. The purpose of this change is to ensure that bondholders would have a direct remedy against Ontario. We have revised the draft Term Sheet to reflect this intention on the basis that it would not materially increase the scope of Ontario's legal or financial liability under the guarantee. However, we note that one consequence of this change is that Ontario would be considered a separate issuer for U.S. securities law purposes.

  - **Specified Claims** – The August Term Sheet purported to extend to all of the "rights and interests of the Financing Entity", including, but not limited to, the right to receive the payments contemplated under the Fair Hydro Plan. The OFA has previously indicated to OPG that the province is only willing to be responsible for the payment of *principal* and *interest* on Senior Debt Obligations. This would exclude other costs and fees incurred by the Financing Entity related to the Fair Hydro program such as payments to service providers (*e.g.*, law firms, accountants) and other types of claims that might be advanced by Beneficiaries in connection with the proposed guarantee. Limiting the province's liability to "senior" debt holders excludes OPG (who is a subordinated debt holder) on the basis that the province has already funded OPG's contribution by way of a liquidity injection. We have revised the Term Sheet to reflect these more limited concepts (primarily by way of a new definition of "Specified Claims").

- **Materiality Threshold** – The August Term Sheet included a series of "Guarantee Activation Events" that would trigger Ontario's obligations under the provincial assurance agreement. Although the enumerated list of events substantially reflected the limited form of guarantee proposed by the OFA, the August Term Sheet removed the "materiality" threshold for guaranteed claims. The intent of this change is to make the province liable in any case where the obligations of bondholders are not paid in full. However, this strict form of guarantee would expose the province to any unreasonable degree of risk. Beneficiaries could potentially seek to trigger the guarantee in response to routine legislative amendments affecting the value of their investment interest only indirectly or in insignificant ways (*e.g.*, a merely theoretical diminution in the value of the regulatory asset or some kind of timing issue that modestly delays payment). For this reason, we have reintroduced the concept of "materiality" in the list of Guarantee Activation Events (now described as "Assumption Events").

- **Right of Subrogation** – We have added a provision to the Term Sheet making it clear that Ontario will be subrogated to the rights of Beneficiaries who receive payments under the guarantee. This ensures that the province will be entitled to pursue any civil remedies against third parties that may have been available to the Beneficiary in respect of such amounts.

- **"Assumption" of Obligations** – The provisions of the August Term Sheet stated that, upon the occurrence of a Guarantee Activation Event, Ontario "assume and pay" all of the obligations of the Financing Entity. This language seems to intend that the province would directly assume all of the Financing Entities obligations to the Indenture Trustee and bondholders. The OFA has previously indicated that Ontario is only willing to commit to pay the principal and interest obligations of the Financing Entity as they come due, and not to replace the Financing Entity and become directly liable for all its obligations (except at its own option as discussed below). We have revised the Term Sheet to reflect this more limited commitment.

- **Optional Replacement** – We have added to the Term Sheet an optional right on the part of the province to assume all of the rights and liabilities of the Financing Entity, without the need for any further consent or approval of the Indenture Trustee. This would provide Ontario with greater flexibility in determining how to deal with any claims arising under the guarantee, without imposing this more onerous obligation on the province.

- **Approval Requirements** – We have revised the approval requirement section of the Term Sheet to modestly strengthen Ontario's rights associated with the process for approving future transactions that will be covered by the provincial assurance agreement.

- **Warehousing/Commingling Risks** – The August Term Sheet included a series of provisions dealing with ongoing business concerns associated with debt warehousing risks and LDC credit rating commingling. As far as we are aware, the arrangements contemplated in these sections have not been agreed to by Ontario and it is not helpful to link them in this way to the ongoing negotiations around the proposed guarantee. For this reason, we have deleted them from the Term Sheet.

E. Recommendations and Next Steps

- MOF-LSB will be arranging a meeting with the OFA as early as practicable next week to discuss the communication of these comments and the revised draft Term Sheet to OPG.

Date: August 31, 2017

Prepared by: Tom McKinlay, General Counsel
Legal Services Branch, Ministry of Energy
416-212-5766

Approved by: Carolyn Calwell, Director
Legal Services Branch, Ministry of Energy
416-212-8392

APPENDIX "A"

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.

From:	John Kim
To:	Ronald Kwan
Cc:	Usman Zahid
Subject:	FW: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 2:24:46 PM
Attachments:	Fair Hydro - August Term Sheet v1.doc

Fyi, and will share with folks upstairs.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

Confidential and Solicitor-Client Privileged

Ministry of the Attorney General
Briefing Note
Civil Law Division
Legal Services Branch
ENERGY/MEDG/MRIS/MOI/ADO

FAIR HYDRO PLAN – PROVINCIAL GUARANTEE

A. Issue

- Provincial Support Agreement Term Sheet

B. Background

- Under the terms of the proposed *Ontario Fair Hydro Plan Act, 2017* (the "Act"),[1] it is anticipated that the Ontario Power Generation ("OPG") will establish a subsidiary entity (the "Financing Entity") that will undertake a public debt offering to finance the implementation of the Ontario Fair Hydro Plan (the "Fair Hydro Plan").

- The Ontario Finance Authority (the "OFA") is leading the negotiation of a term sheet with OPG that would outline the basis upon which the government of Ontario ("Ontario") would provide financial assurance to support such a debt offering.

- OPG has advised that a term sheet codifying Ontario's commitment, at least at a high level, will be necessary to support OPG's pending discussions with credit rating agencies, as well as the anticipated triple-A rating of the proposed debt offering.

- OPG provided the OFA with a draft of a proposed term sheet dated May 12, 2017 (the "May Term Sheet"). The May Term Sheet included a number of features that were unacceptable to Ontario, including, most notably, a performance guarantee covering obligations of the Independent Electricity System Operator (the "IESO") and a liquidity guarantee that would be triggered in the case of financial market disruption.

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D. Analysis

Purpose of Term Sheet

- As a preliminary matter, it is important to recognize that the purpose of the proposed Term Sheet is not to create enforceable rights or obligations. Section 5(3) of the Act makes it clear that any guarantee provided by the province must be agreed to by the Minister of Energy and the Minister of Finance (acting together) as authorized by order of the Lieutenant Governor in Council (the "LGIC"). The LGIC has not yet made an OIC authorizing the responsible Ministers to enter into any guarantee and therefore the Ministers do not yet have any legal authority to do so.

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E. Recommendations and Next Steps

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Date: August 31, 2017

Prepared by: Tom McKinlay, General Counsel
Legal Services Branch, Ministry of Energy
416-212-5766

Approved by: Carolyn Calwell, Director
Legal Services Branch, Ministry of Energy
416-212-8392

APPENDIX "A"

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.*

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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].
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	(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.
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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.
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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.

From:	John Kim
To:	Mike Manning; Ken Kandeepan
Cc:	Ronald Kwan; Gadi Mayman; Carlos Yep; James Devine; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Scott Nelms (ENERGY)
Subject:	FW: Provincial Support Agreement update
Date:	Wednesday, September 06, 2017 5:01:44 PM
Attachments:	Fair Hydro - August Term Sheet v1_SharedClean.doc

Hi Mike, Ken,

I had a call with Adrian Nalasco who is acting for Steen. He has indicated that along with Steen, Energy's Deputy is away so it is difficult for him to provide a formal go-ahead to us. I explained to him the time sensitivity and that we would have a discussion with OPG on an informal basis to get their feedback on the latest draft which MOF Legal and Energy Legal have drafted. I gave him a bit of a background that OPG has had back and forth with us on previous versions of the draft.

With these caveats, Adrian is comfortable with various members of the OFA having discussions with OPG counterparts on the latest draft support agreement.

Thanks,

John

From: John Kim
Sent: Tuesday, September 05, 2017 6:08 PM
To: Steen Hume (CAB) <Steen.Hume@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Cheryl Carson (ENERGY) <Cheryl.Carson@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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.

From: Ronald Kwan
To: John Kim; Bruno Amara
Cc: Gavin He
Subject: FW: Provincial Support Term Sheet
Date: Monday, May 29, 2017 1:13:41 PM
Attachments: Prov Support Agt May 12 MOF draft comments.docx

Hi,

Please review.

Thanks,
Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: May-29-17 12:40
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: Provincial Support Term Sheet

Hi all,

Here is our issues list.

Malle

From: Hanslep, Malle (MOF)
Sent: May 29, 2017 9:18 AM
To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
Cc: Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi all,

We are also putting together an issues list for discussion with Energy Legal and Blakes and will share it with you as well.

Is there any type of draft term sheet for the proposed financing transaction itself or the master sales and servicing agreement? Any general description of the proposed transaction would be helpful to us.

Thank you.

Malle

From: Hanslep, Malle (MOF)
Sent: May 26, 2017 3:16 PM

To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
Cc: Whitfield, Tobias P. (MOF)
Subject: Provincial Support Term Sheet

Hi all,

Further to our meeting on Wednesday, Toby and I have now been in touch with Energy Legal regarding the term sheet and will be attending a meeting with counsel at Blakes next Wednesday morning.

Best,

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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CONFIDENTIAL AND PRIVILEGED LEGAL ADVICE

ISSUES LIST – PROVINCIAL SUPPORT AGREEMENT DRAFT MAY 12, 2017

1. Guarantor will be the Minister of Energy and the Minister of Finance on behalf of the Province (see. 5(3) of proposed Fair Hydro Act, 2017).

2. Description of proposed beneficiaries of guarantee is very broad. Provides that beneficiary is Indenture trustee under master trust indenture on behalf of itself and all persons that have claims against a Financing Entity secured under the master trust indenture. Persons range from the Financial Services Manager (OPG) to holders of various types of debt and hedge counterparties. Need to clarify which obligations the Province is being requested to guarantee and under what various agreements to determine scope and limit of guarantee. Is there a term sheet for the proposed financing to be issued by the Financing Entity? Is there a request for a guarantee of payment on other back-up or ancillary borrowing and obligations other than those issued in the market? Is there a draft of the Master Trust Indenture?

3. Why does the term of the guarantee continue for one year after the obligations have been repaid?

4. Performance Guarantee – This is also a very broad guarantee of performance of the IESO and all electricity services providers in favour of the same broad group of beneficiaries. How can the Province ensure that these entities perform their obligations practically? Also the Province is to protect beneficiaries from any commingling risk. It is noted that in the event the performance guarantee is unenforceable against the Province, there would be a separate legal obligation in the provincial support agreement to indemnify beneficiaries for any losses. Would there be any trigger events applicable to the obligation to indemnify as there are for the payment guarantee. If not, is this an issue for accounting treatment purposes? Also, is there an overlap between the performance and payment guarantee? So long as the funding obligations are paid on time by the financing entity, is there a need for other guarantees from the Province? Note that the Province does have immunity from specific types of enforcement under the Proceedings against the Crown Act. Is there a sample term sheet for the Master Sale and Servicing Agreement? Which provisions of the proposed bill are being relied on for this – is it section 5(2)? section 33. There doesn't seem to be a mechanism in the Act to replace the IESO as servicer. Should the Guarantee specify that the Province can appoint a replacement servicer?

5. Payment Guarantee Event – Regarding (B) and (C), the interpretation of when the triggering event has occurred will be an issue – is there a way to make it more objective or how can this be handled if there is a dispute? Regarding (D), think that there is going to be more discussion of the need for this provision from a business perspective. However, is this assuming, that the Province is guaranteeing both long term and short

term funding obligations? Need to clarify when and which obligations the province will be guaranteeing?

6. Payment Guarantee – Again it will be necessary to clarify which obligations the province is guaranteeing to understand what the range of payments to be made are. Also, (y) does not seem acceptable to the Province from a business perspective.

7. Limits under Guarantee – The guarantee wording should be clear so that the Province is guaranteeing payment of certain debt or specific obligations only and the Province's liability should be capped. Province should not be exposed to the risk of any other types of damages or losses.

8. Priority of Payments – Until we know who the beneficiaries are and with respect to what obligations, it is difficult to comment on this.

9. Subrogation – Need to ensure that the Province has appropriate recovery rights and not sure that it is appropriate that all beneficiaries are paid in full before Province gets subrogation rights. Also there is no acceleration here and Province really pays on an ongoing basis so how should subrogation work in such a case.

10. Conditions Precedent – Need to know what they are proposed to be.

11. Representations – Need to know what they are proposed to be as Province does not typically provide representations in connection with guarantees it provides.

12. Confidentiality Obligations – Thought the guarantee is part of a public financing so wouldn't the terms all be known?

13. Legal Opinions – Content, who will be providing them and to whom would they be provided.

General Questions on proposed legislation and interaction with guarantee:

14. General review of relevant sections would be appreciated and how the provisions fit with the requirements of the financing. In particular, s. 5, 13, 19, 21, 22, 33, 41 par 7

Ministry of Finance LSB
May 29, 2017

From: Ronald Kwan
To: John Kim
Subject: FW: Provincial Support Term Sheet
Date: Monday, May 29, 2017 9:39:59 AM

Hi John,

See Malle's query.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: May-29-17 09:18
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: Provincial Support Term Sheet

Hi all,

We are also putting together an issues list for discussion with Energy Legal and Blakes and will share it with you as well.

Is there any type of draft term sheet for the proposed financing transaction itself or the master sales and servicing agreement? Any general description of the proposed transaction would be helpful to us.

Thank you.

Malle

From: Hanslep, Malle (MOF)
Sent: May 26, 2017 3:16 PM
To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
Cc: Whitfield, Tobias P. (MOF)
Subject: Provincial Support Term Sheet

Hi all,

Further to our meeting on Wednesday, Toby and I have now been in touch with Energy Legal regarding the term sheet and will be attending a meeting with counsel at Blakes next Wednesday morning.

Best,

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan
To: John Kim; Bruno Amara
Cc: Gavin He
Subject: FW: Provincial Support Term Sheet
Date: Thursday, June 01, 2017 10:54:19 AM
Attachments: Provincial Support Arrnagement - Preliminary Issues (May 31).pdf

---

Hi,

Please take a look.

Ron

-----Original Message-----
From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: June-01-17 09:13
To: Mike Manning <Mike.Manning@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: RE: Provincial Support Term Sheet

FYI, attached is a scan of the comments on the term sheet from the lawyer at Blakes. We are working on an issues summary list to combine these comments with our earlier issues list, which we will circulate as soon as it is ready.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 31, 2017 12:45 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
Subject: RE: Provincial Support Term Sheet

Does Legal Services have a call-in or would you like the OFA to set up?

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 12:31 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: RE: Provincial Support Term Sheet

Yes 3:30 is fine with me too.

-----Original Message-----

From: Whitfield, Tobias P. (MOF)
Sent: May 31, 2017 12:30 PM
To: Kwan, Ronald (OFA); Manning, Mike (OFA); Hanslep, Malle (MOF)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
Subject: RE: Provincial Support Term Sheet

3:30 is fine for me.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: May 31, 2017 12:24 PM
To: Manning, Mike (OFA); Hanslep, Malle (MOF)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi,

Either time works for me.

Ron

-----Original Message-----
From: Mike Manning
Sent: May-31-17 12:23
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: Provincial Support Term Sheet

Would 3:30 work?

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 11:30 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: Provincial Support Term Sheet

Hi all,

We had a very useful meeting with Blakes (Steven Ashbourne) and Energy Legal this morning. There are quite a few legal issues and concerns to discuss regarding this term sheet as it is overly broad. At this point in the development of the province's role in support, it seems that the development of this type of term sheet is premature given the uncertainties.

At our meeting we discussed, that a useful next step would be to have another meeting with Provincial representatives and Blakes which would include yourselves from the OFA, Energy legal and Energy reps as well as the Provincial Controller and likely TD as well as the Province's financial advisor so that we can all discuss next steps and the best approach.

In the meantime, Toby and I can have an internal call to give you an update on our meeting this morning. Possibly at 3pm today if that works.

Thanks.

Malle

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Hi Ron
>
> We are meeting on Wednesday morning so after that we could have a follow up
>
> Malle
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Ronald Kwan
> Sent: Monday, May 29, 2017 17:17
> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
>
>
> Hi Malle,
>
> Thanks for the list.
>
> Would it be helpful if the group met again to discuss?
>
> When are you meeting with Energy Legal and Blakes?
>
> Ron
>
> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan

<Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> Subject: RE: Provincial Support Term Sheet
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> Here is our issues list.
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> Sent: May 29, 2017 9:18 AM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
> Cc: Whitfield, Tobias P. (MOF)
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> Best,
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> Malle
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>
>
> Malle Hanslep
> Deputy Director
> Ministry of the Attorney General
> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
>
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>

>
> _____
>
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Provincial Support Arrangement

Here are some questions to frame our discussion at 9 a.m. this morning, based on the May 12th version of the Term Sheet:

1. Should the Province's support covenant run in favour of the indenture trustee (for beneficiaries) or only the finance entity and be pledged? This may impact matters such as whether the Province is seen as a 'co-issuer' under US securities laws and perhaps the Province's accounting treatment.

2. Should the support covenant be given in respect of all potential claimants from the financing entit(y/ies), or only specified creditors? For example, should the 'subordinated notes' be given the full benefit of the support covenant?

3. Should the support covenant be given up-front in an open-ended, program-wide fashion, or be given in relation to individual transactions and specified creditors of the financing entity at the relevant time of transacting and only for the duration of the relevant underlying obligations?

4. Should the support covenant purport to extend to more than one financing entity?

5. Extending the arrangement to 1 year beyond the latest obligation (broadly construed) essentially means the support covenant will hang out there indefinitely – is this intended?

6. Is the scope of the "performance guarantee" (i.e., servicing, commingling; EV's and IESO) appropriate? Should we make clear that it would not extend to "seller" obligations arising under the MSSA? Can the Province commit to "perform or cause the performance" as a powers matter?

7. Consider the deletions of the "Performance Guarantee Event" concept. As marked up, the performance guarantee would not require any process to first pursue remedies against IESO.

8. If a "payment guarantee" is to be provided, it will raise issues for the Province, including accounting treatment and scope of the support undertaking. Has this sort of investigation been undertaken by the Province at this point?

9. Consider the overall scope of the "payment guarantee event" provision. Issues include the risk that an amendment of the Act or Regulation has a non-material, incidental impact on the timing of payment (i.e., the receipt of funds from an EV), which triggers an effective put at a premium. Another is that a lower court finding of *ultra vires* could trigger the obligation, rather than a "final, non-appealable decision".

10. Should the support arrangement extend to cover "invalidity" or "unenforceability" (see (C) under "Payment Guarantee Event") that arises for reasons other than the validity of the Act and Regulation (e.g., if the actual funding obligation, which the Province may not even be aware of, is impugned for an unrelated reason, such as entity governance or contracting issues)?

11. The "market disruption" provision (see (D) under "Payment Guarantee Event") needs considerable further thought and refinement (e.g., as proposed, the event is based on the ability to refinance the particular funding obligations, rather than "general market disruption"). Is the Province prepared to be a standby purchaser of any funding obligations in any market-based illiquidity scenario? Note that private market liquidity or "extendable note features" may be available at a cost. In any event, support from the Province of this type should probably only be addressed very specifically and at the time of the specific transaction and narrowly with respect to the obligations for which this sort of protection is specifically required. Note that depending on the maturities incurred under the financing plan, this could cause a major funding requirement for the Province.

12. The "stand-in" payment provisions contemplated in clause (x) under "Payment Guarantee" need to be better understood. Assuming that they result in the rating of any bonds being downgraded to the Province's then rating, should the Province have a redemption option in that scenario?

13. The "put at a premium" provisions contemplated in clause (y) under "Payment Guarantee" would need to be refined so that the entire structure (i.e., all related finding obligations, such as swaps, sub debt and liquidity commitments) would be 'unwound' in total, rather than only certain debt to avoid standing or perpetuating attendant obligations. Is the 101% pay-out always appropriate? If the Province is liable for payments under obligations, will it need certainty as to the underlying terms and conditions?

14. What is the consequence of the market disruption scenario described in (D) under "Payment Guarantee Event" – it doesn't seem to be covered under "Payment Guarantee"?

15. The postponement of subrogation rights is a problem. In effect, a payment to a senior ranking creditor would provide credit enhancement to all junior ranking obligations which may not have been the intended beneficiaries of the support arrangement (including service providers and sub debt). The general approach to subrogation needs to be considered at the time of incurrence of a funding obligation in relation to the particular scenario and circumstances.

16. "Notice", "Closing", "Governing Law" and other mechanics will need to be revised as required to the extent that the provision of support is intended to be transaction-specific, creditor-specific, etc.

17. To the extent that the support is given up-front, the Province will need to have the benefit of its own very specific condition precedents, including to approve each future transaction and finding obligation – would this disrupt the accounting treatment anticipated for OPG based on excessive control over financings?

18. Consider whether accepting or acknowledging "customary representations" and "customary confidentiality obligations" in this context makes sense. Customary for the Province?

19. Has anyone considered the Province's related governance requirements and related due diligence (e.g., the implications of a US offering under US securities laws). In the absence of a structure and contracts, how can the Province be assured that it is not

inadvertently becoming liable for unintended obligations, duties and liabilities (e.g., servicer buy-backs; "servicer advances"; entity-level tax payments; etc.)?

20. Has the Province's own accounting treatment for these been investigated? What limitations should be tabled at this stage?

21. Does the Province have concerns regarding potential for incongruences between the level of actual "independence" from the Province and public perception in relation to the OFHPA generally?

From: John Kim
To: Ronald Kwan
Subject: FW: Question - Provincial Support Agreemnt
Date: Thursday, July 27, 2017 9:26:14 AM

Fyi.

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, July 27, 2017 9:05 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: Question - Provincial Support Agreemnt

John,

I have been in touch with Energy Legal, and they have been working on drafting. They are going back to the policy folks on their side, and trying to better set out what roles everyone will play in the process. If you haven't heard from them on this, maybe it makes sense for you to reach out to them (and Kaitlin).

I think that the roles and process needs to be set out before we can move the drafting forward.

I think it probably makes sense for your team to have a discussion with Kaitlin as well as policy staff at ENERGY to figure out what the process for making calculations and confirming monthly calculations should be. My sense is that ENERGY thinks that the OFA should be doing the analysis on a monthly basis, but I have no basis for making such a call. It is an ENERGY program, and the Minister of Energy will be making the share purchases, but I am not sure where the expertise or the role lies for the analysis should be, or what kinds of confirmations/analysis is even being done on a monthly basis. If you can work that out with Kaitlin/ENERGY, then we can move forward with the drafting.

Happy to discuss further.
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: July 26, 2017 9:03 PM
To: Whitfield, Tobias P. (MOF)
Subject: Question - Provincial Support Agreemnt

HI Toby,

Just wanted to get a sense of where things were with respect to the support agreement.

I've been a bit out of the loop on it and looking to update Ron.

Thanks,

John

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From:	Whitfield, Tobias P. (MOF)
To:	Ken Kandeepan; Carlos Yep; John Kim; James Devine; Ronald Kwan; Salman Qadir
Cc:	Malle Hanslep (MOF); Mike Manning
Subject:	FW: Revised Version of Provincial Support Arrangements
Date:	Tuesday, June 20, 2017 9:39:17 AM
Attachments:	23148306-v6-Term Sheet - Provincial Support Agreement - May 12.DOCX 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.PDF

Please see attached, for your review and comment, a revised draft that Stephen prepared based on our conversation yesterday. MOF Legal has no further comments on this draft.

I think that the two significant changes to note are:

1. The addition of the concept of "third party claims" as the driver of the indemnity section, meaning that the Indemnitee (which is a Financing Entity) can only bring a claim after a claim has been brought against them by a creditor.
2. The addition of the concept of conditions that would be required to step in in the event of funding mismatches, such as a market disruption event. As discussed yesterday, this provision is soft, so it is not clear what exactly this commits the Province to, but does give some comfort based on the language in this section.

Since there is a large group on this email, I think the best approach is to wait until noon for comments. If there are none by then, I will let Stephen and Energy know that we are ok with the draft, and Scott Nelms and whoever else needs to be involved with opening the discussions with OPG can use this version.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: June 19, 2017 8:32 PM
To: Hanslep, Malle (MOF); McKinlay, Tom (ENERGY); Whitfield, Tobias P. (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); Nelms, Scott (MOF)
Subject: Revised Version of Provincial Support Arrangements

Hi. As a follow-up to our meeting earlier today, here is a revised version of the draft term sheet. The blackline shows changes from the June 14th version. Please let me know if you have any questions or concerns with the comments – including the deletion of the 'privilege' reference. Scott has the OFA's green light to share the draft term sheet with OPG. Please send along any final thoughts as soon as you can. The plan will be for Scott to send it out tomorrow morning. Thanks, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

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Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Performance Guarantees	
Performance Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 Performance 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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Performance Guarantee:	Pursuant to a Performance Guarantee, the Performance 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 Performance Guarantee is held to be unenforceable against the Performance Guarantor, the Performance Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
<u>Indemnity</u>	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.

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 (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	The 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.
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Limits under Indemnity:	Under no circumstances shall the Indemnitor be obligated to indemnify any Beneficiary for special or punitive damages, or for loss of profits.
<u>Undertakings regarding Certain Mismatches</u>	
Avoidance of Mismatches	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 avoid any Mismatch.

Possible Undertaking to Fund Mismatches	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 avoid 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 avoid the Mismatch. Any such undertaking may only be given 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 an inability to refinance 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.
<u>Documentation</u>	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance 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 Performance Guarantor or the Indemnitor, or any agent or representative of the Performance 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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial Protection and Assurances

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	interests of the Financing Entity under its investment interest.
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Governing Law:	Province of Ontario.

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Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/5
Description	TOR_2528-#23148306-v5-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/6
Description	TOR_2528-#23148306-v6-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	11
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	24

From:	Gadi Mayman on behalf of Scott Nelms (ENERGY)
To:	Mike Manning; Carlos Yep; Gadi Mayman; Anna Strathy; STEPHEN.ASHBOURNE@blakes.com; Ronald Kwan; Steen Hume (CAB); Carolyn Calwell (MCSS); Ken Kandeepan; Tom McKinlay (MAG); Montgomery, Kaitlin (MOF); Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF)
Cc:	Smith, Stephanie M. (MOF); Hresa Gavaris
Subject:	FW: Teleconference: Provincial Protection and Assurances Term Sheet
Attachments:	RE EXTERNAL Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro.msg

-----Original Appointment-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Thursday, July 06, 2017 10:33 AM
To: Nelms, Scott (MOF); Gadi Mayman; STEPHEN.ASHBOURNE@blakes.com <mailto:STEPHEN.ASHBOURNE@blakes.com> ; Steen Hume (CAB); Carolyn Calwell (MCSS); Ken Kandeepan; Tom McKinlay (MAG); Montgomery, Kaitlin (MOF); Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF)
Cc: Smith, Stephanie M. (MOF); Hresa Gavaris
Subject: Teleconference: Provincial Protection and Assurances Term Sheet
When: Thursday, July 06, 2017 3:00 PM-3:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference line: 416 212 8013 Conference ID: 4075747

Meeting background:

From: Scott Nelms (ENERGY) []
To: Carolyn Calwell (MCSS) [Carolyn.Calwell@ontario.ca]; Steen Hume (CAB) [Steen.Hume@ontario.ca]; Gadi Mayman [Gadi.Mayman@ofina.on.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Tom McKinlay (MAG) [Tom.McKinlay@ontario.ca]; Montgomery, Kaitlin (MOF) [Kaitlin.Montgomery@ontario.ca]; ASHBOURNE, STEPHEN [STEPHEN.ASHBOURNE@blakes.com]; Malle Hanslep (MOF) [Malle.Hanslep@ontario.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Veinot, Cindy (TBS) [Cindy.Veinot@ontario.ca]; Nadine Petsche (MOF) [Nadine.Petsche@ontario.ca]
CC: Karpowicz, Eva (MOF) [Eva.Karpowicz2@ontario.ca]
Subject: RE: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date: Wednesday, July 05, 2017 17:48:59
Attachment 1: image001.jpg

Good suggestion from Gadi – we should probably touch base internally in advance of meeting with OPG. I wonder if we could try for a quick 30 min phone call either tomorrow or Friday.

I will reach out to OPG to set something up for next week.

From: Nelms, Scott (MOF)
Sent: July 5, 2017 2:44 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Steen Hume (ENERGY) (Steen.Hume@ontario.ca); Mayman, Gadi (OFA) (Gadi.Mayman@ofina.on.ca); Kandeepan, Ken (OFA); McKinlay, Tom (ENERGY); Montgomery, Kaitlin (MOF); ASHBOURNE, STEPHEN
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi,

Please see the following comments from OPG / Torys on the guarantees.

I wonder if we are now at a point we should suggest sitting down with OPG on this perhaps early next week.

Thanks,

Scott

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: June 30, 2017 3:12 PM
To: Nelms, Scott (MOF)
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; HAHN PARKER Janet -TREASURY
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Scott:

Further to our discussion on the outstanding issues, please find below the comments from the Dealers on the "Markup" of the Provincial Protection and Assurance term sheet.

As noted below, the next step should be to get the appropriate parties from the Province to sit down with the dealers and OPG to go over the points and agree on a basis to move forward.

We should try to do that sometime next week. Let us know what times work on the Province side and we will coordinate with the Dealers & counsels.

John

From: Mansoori, Nina [mailto:nmansoori@torys.com]
Sent: Friday, June 30, 2017 12:24 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
Subject: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

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John/Les/Ken,

Please find below an issues list on the Province's comments on the Provincial Protection and Assurances Term Sheet (formerly the Provincial Support Agreement). This list reflects input from the dealers, Oslers and Torys. Please let us know if you have any additional comments or questions. If not, will you be reaching out to the Province to schedule a meeting next week (with the dealers, OPG, the Province and their counsels) to discuss these points? The dealers and their counsel don't see value in exchanging further drafts of the term sheet until they have had an opportunity to meet with the Province. We agree with this approach and are happy to assist in coordinating a meeting for next week. It would also be helpful to hear the Province's rationale and concerns for making some of these changes. Please let us know.

Many thanks,

Nina

1. The Servicing Guarantee:

(a) It is written in favour of only the financing entity. However, in the MTSA, we are asking for covenants directly in favour of Indenture Trustee. The Indenture Trustee/specified creditors should have the direct benefit of the guarantee rather than relying on an indirect security interest in the servicing guarantee.

(b) It should be clarified that the servicing obligations of the electricity vendors are covered.

(c) If the guarantee is unenforceable, we should fall back to an indemnity, not a "functionally equivalent direct covenant" which is an uncertain concept.

(d) We don't want an exclusion for economic loss. That may cover whatever losses the specified creditors do suffer.

2. Change of Law.

(a) This should be written as a guarantee not an indemnity.

(b) It should be directly in favour of the Indenture Trustee/specified creditors and it should cover all the “finance amount” and not just funding obligations.

(c) We do not want the guarantee to be provided by another entity which is in turn guaranteed by Ontario. It should come directly from Ontario.

(d) There should be no “materiality” threshold for a claim. If obligations are not paid in full, then there should be a claim.

(e) The choice to assume or accelerate should be at the option of the holders, not the guarantor.

(f) If accelerated, then the 1% premium should be payable. This is a voluntary termination by the Province.

3. Undertaking Regarding Mismatches (market disruption)

(a) At best this structure defers the discussion of protection for a market disruption. At worst, it is impractical that take-out financing needs to be arranged in advance of each warehouse financing. We should rely on a definition of market disruption.

4. Approvals.

(a) Province to clarify what is contemplated under the heading “Approval Requirement”. Is Province proposing to approve any obligation incurred by the Financing Entity?

(b) Approval under Section 28 of the *Financial Administration Act* to be attained (in case the OFHPA is declared void in its entirety).

P. 416.865.7332 | F. 416.865.7380 | 1.800.505.8679

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TORYS
LLP

From: Ronald Kwan
To: John Kim
Cc: Gavin He
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date: Monday, April 24, 2017 4:12:47 PM
Attachments: Term Sheet - Provincial Support Agreement (2).docx

---

Hi John,

Please review.

Thanks,
Ron

From: Mike Manning
Sent: April-24-17 16:06
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Just got this from John Lee today. Will talk to him shortly to get more colour.

Regards, Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, April 24, 2017 2:13 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: PRESTON Stuart -TREASURY <stuart.preston@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>
Subject: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

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Provincial Support Agreement Term Sheet –

Fair Hydro Plan Act, 2017

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Guarantor:	Her Majesty the Queen in right of Ontario, as represented by the Minister of Energy.
Beneficiaries:	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 all persons who may have contractual claims against a Financing Entity (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]).
Term:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[2] after all Funding Obligations 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 the Master Sale and Servicing Agreement between IESO, as seller and servicer, and the Financing Entity, as purchaser, **[and OPG as Financial Services Manager]** ("**MSSA**"). 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.

[1] We have assumed that the initial Financing Entity will be a trust.

[2] 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.

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) if the Legislative Assembly of Ontario repeals the Act; or (B) if the Legislative Assembly of Ontario amends the Act or Regulation thereunder in a way that adversely impacts the ability of a Financing Entity to fully recover an investment interest in order to fully pay all 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 interest in order to fully pay all obligations incurred by such Financing Entity in respect of such investment interest or (ii) declares any funding obligations to be invalid or unenforceable.
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.

[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.

Subrogation:	Where the Guarantor has repaid a Beneficiary, to the extent of such payment, the Guarantor is subrogated in and to all the rights of recovery of such Beneficiary in respect of the applicable indebtedness and the security granted by a Financing Entity to the Indenture Trustee. After repayment by the Guarantor of all amounts owing to a Beneficiary, the Indenture Trustee will acknowledge and agree on behalf of such Beneficiary that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiary has or may exercise in respect of the repaid indebtedness, all in accordance with the terms of the Master Trust Indenture.
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.[5]
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.

[5] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

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

From:	Mike Manning
To:	Ken Kandeepan; Ronald Kwan; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF)
Subject:	FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Monday, April 24, 2017 4:05:33 PM
Attachments:	Term Sheet - Provincial Support Agreement (2).docx

Just got this from John Lee today. Will talk to him shortly to get more colour.

Regards, Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, April 24, 2017 2:13 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: PRESTON Stuart -TREASURY <stuart.preston@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>
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Beneficiaries:	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 all persons who may have contractual claims against a Financing Entity (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]).
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Limits under Guarantees:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or loss of profits.
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[5] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

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

From: John Kim
To: Ronald Kwan
Cc: Gavin He; Bruno Amara; Salman Qadir
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date: Monday, April 24, 2017 4:57:29 PM

Hi Ron,

Some early comments, and pls. note the comment about the Master Sale and Servicing Agreement.

John

From: Salman Qadir
Sent: Monday, April 24, 2017 4:50 PM
To: John Kim <John.Kim@ofina.on.ca>; Adam Prokop <Adam.Prokop@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

My take:

- IESO is responsible for paying the interest/admin costs to the Trust to ensure Trust's investors are paid.
- If any of the following events occur, [its assumed that IESO, as servicer, is in default, as per another agreement, Master Sale and Servicing Agreement – we should ask to see this agreement], the Province guarantees those payments to the investors in the Trust

Conditions for Guarantee to kick in if IESO cannot make payment:

a) if the Legislative Assembly of Ontario repeals the Act; or
b) if the Legislative Assembly of Ontario amends the Act or Regulation thereunder in a way that adversely impacts the ability of a Financing Entity to fully recover an investment interest in order to fully pay all 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 interest in order to fully pay all obligations incurred by such Financing Entity in respect of such investment interest or (ii) declares any funding obligations to be invalid or unenforceable.

We should ask to see what triggers IESO default in the Master Sale and Servicing Agreement. Given what it says, IESO may still be able to "service" the obligations of the Financing Entity. The language in the guarantee, however, leads me to believe that should the above conditions come into play, IESO automatically defaults and Province takes over.

Furthermore:
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.

Salman

From: John Kim
Sent: Monday, April 24, 2017 4:37 PM
To: Salman Qadir <Salman.Qadir@ofina.on.ca>; Adam Prokop <Adam.Prokop@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Am I reading it right that the guarantee kicks in if IESO role is in question?

John

From: Ronald Kwan
Sent: Monday, April 24, 2017 4:13 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Hi John,

Please review.

Thanks,
Ron

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From:	Ken Kandeepan
To:	Tobias P. Whitfield (MOF); Malle Hanslep (MOF)
Cc:	Ronald Kwan; John Psinas; John Kim; Mike Manning; Carlos Yep; James Devine; Anna Strathy
Subject:	Fair Hydro - August Term Sheet v1.doc
Date:	Wednesday, September 06, 2017 11:17:21 AM
Attachments:	Fair Hydro - August Term Sheet v1.doc

Hi Malle and Toby

As mentioned yesterday, pls find attached my edits and comments on the MOE note.

Thanks

Ken k

Confidential and Solicitor-Client Privileged

Ministry of the Attorney General
Briefing Note
Civil Law Division
Legal Services Branch
ENERGY/MEDG/MRIS/MOI/ADO

FAIR HYDRO PLAN – PROVINCIAL GUARANTEE

A. Issue

- Provincial Support Agreement Term Sheet

B. Background

- Under the terms of the proposed *Ontario Fair Hydro Plan Act, 2017* (the "Act"),[1] it is anticipated that the Ontario Power Generation ("OPG") will establish a subsidiary entity (the "Financing Entity") that will undertake a public debt offering that is part of the ~~to~~ financing~~e~~ required for the implementation of the Ontario Fair Hydro Plan (the "Fair Hydro Plan").

- The Ontario Finance Authority (the "OFA") is leading the negotiation of a term sheet with OPG that would outline the basis upon which the government of Ontario ("Ontario") would provide financial assurance to support such a debt offering.

- OPG has advised that a term sheet codifying Ontario's commitment, at least at a high level, will be necessary to support OPG's pending discussions with credit rating agencies. OPG and its advisors are of the opinion that a robust provincial guarantee has the potential positively impact on the eventual credit rating assigned to the financing entity. , ~~as well as the anticipated triple-A rating of the proposed debt offering.~~

- OPG provided the OFA with a draft of a proposed term sheet dated May 12, 2017 (the "May Term Sheet"). The May Term Sheet included a number of features that were unacceptable to Ontario, including, most notably, a requirement to pay off all debt obligations of the Financing Entity including a 1% premium under certain circumstances. Other features that presented difficulties from the Province's perspective included a performance guarantee covering obligations of the Independent Electricity System Operator (the "IESO") and a liquidity guarantee that would be triggered in the case of financial market disruption.

Commented [KK1]: Note that the public debt offering is only 51%

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[1] S.O. 2017, c. 16, Sched. 1.

- In a meeting on July 12, 2017, the OFA communicated Ontario's concerns about the May Term Sheet and indicated that the province would be willing to provide financial assurance to prospective investors in respect of only two kinds of risk:

    - the possibility of future legislative by the government of Ontario compromising the economic rights of investors; and

    - the possibility that the Fair Hydro Plan is ultimately found to be invalid from a constitutional perspective by a court of competent jurisdiction.

    - A change in the organization, structure or operations of the IESO or a change in the electricity market structure that adversely affects the ability of the Financing Entity to make payments on its debt obligations

- The OFA accepted that it was fair and reasonable for the province to provide a guarantee in respect of these three~~wo~~ risks because they would be a consequence of the government`s past and future policy decisions. However, the OFA indicated that investors would need to assume the risk associated with other aspects of the Fair Hydro Plan and the risk of future capital market disruptions.

C. Current Status

- The OPG took Ontario's position back to the investment dealers and worked with them to develop a revised term sheet that better reflected this more limited form of provincial guarantee (the "August Term Sheet").

- Ontario's external counsel (Blake, Cassels & Graydon LLP ("Blakes")) provided a mark-up of the August Term Sheet identifying a number of continuing concerns arising out of the draft provisions and to propose further amendments intended to address those concerns.

- On August 22, 2017, counsel from the Ministry of Energy, the Ministry of Finance ("MOF-LSB") and Blakes met with representatives from the OFA to discuss a number the issues identified by Blakes, as well as a number of further concerns identified by counsel in MOF-LSB.

D. Analysis

Purpose of Term Sheet

- As a preliminary matter, it is important to recognize that the purpose of the proposed Term Sheet is not to create enforceable rights or obligations. Section 5(3) of the Act makes it clear that any guarantee provided by the province must be agreed to by the Minister of Energy and the Minister of Finance (acting together) as authorized by order of the

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Lieutenant Governor in Council (the "LGIC"). The LGIC has not yet made an OIC authorizing the responsible Ministers to enter into any guarantee and therefore the Ministers do not yet have any legal authority to do so.

- Against this backdrop, it is clear that the purpose of the Term Sheet is to outline, in a general way, a high level understanding of the type of financial assurance that the province might be willing to provide to prospective investors in appropriate circumstances. The actual terms and conditions of any future assurance agreement entered into by Ontario will need to be fully negotiated in the context of a specific transaction and would necessarily be subject to LGIC and Ministerial approval.

Continuing Legal Concerns

- Attached to this briefing note as **Appendix "A"** is a revised draft of the August Term Sheet reflecting the consolidated legal comments of Blakes, MOF-LSB and ENE-LSB. The revisions are broadly intended to address the following concerns:

  - **Title** – Blakes is of the view that the proposed provincial assurance agreement is more accurately characterized as an indemnity arrangement, than a guarantee. There are highly technical reasons underlying this position and we note that OPG's external counsel (Torys LLP) does not agree with this concern. Rather than engaging in this debate, we have simply re-titled the proposed agreement as a "Change of Law Assumption Agreement," which more specifically reflects the substantive nature of the assurances that the province intends to provide.

  - **Preamble** – We have added a provision to the preamble to more explicitly confirm that the arrangements contemplated in the Term Sheet are subject to further government approvals and that the document is not intended to create any legally binding obligations.

  - **Beneficiaries** – Torys has indicated that the provincial guarantee must be given directly in favour of the Indenture Trustee, rather than the Financing Entity. The purpose of this change is to ensure that bondholders would have a direct remedy against Ontario. We have revised the draft Term Sheet to reflect this intention on the basis that it would not materially increase the scope of Ontario's legal or financial liability under the guarantee. However, we note that one consequence of this change is that Ontario would be considered a separate issuer for U.S. securities law purposes.

  - **Specified Claims** – The August Term Sheet purported to extend to all of the "rights and interests of the Financing Entity", including, but not limited to, the right to receive the payments contemplated under the Fair Hydro Plan. The OFA has previously indicated to OPG that the province is only willing to be responsible for the payment of *principal* and *interest* on Senior Debt Obligations. This would

Commented [KK2]: Reading the comments from Steve Ashbourne, I am not sure if he conclusively states that Ontario will in fact become an issuer, rater he simply raises the possibility. In any event this is only an issue if the FE has to raise funds in the US Markets, something that the OFA is not in favour, at least over the next few years.

exclude other costs and fees incurred by the Financing Entity related to the Fair Hydro program such as payments to service providers (*e.g.*, law firms, accountants) and other types of claims that might be advanced by Beneficiaries in connection with the proposed guarantee. Limiting the province's liability to "senior" debt holders excludes OPG (who is a subordinated debt holder) on the basis that the province has already funded OPG's contribution by way of a liquidity injection. We have revised the Term Sheet to reflect these more limited concepts (primarily by way of a new definition of "Specified Claims").

Commented [KK3]: The OFA is not particularly fussed about extending the guarantee to cover these payments; within the overall context of the FHP these amounts will not be material.

- **Materiality Threshold** – The August Term Sheet included a series of "Guarantee Activation Events" that would trigger Ontario's obligations under the provincial assurance agreement. Although the enumerated list of events substantially reflected the limited form of guarantee proposed by the OFA, the August Term Sheet removed the "materiality" threshold for guaranteed claims. The intent of this change is to make the province liable in any case where the obligations of bondholders are not paid in full. However, this strict form of guarantee would expose the province to any unreasonable degree of risk. Beneficiaries could potentially seek to trigger the guarantee in response to routine legislative amendments affecting the value of their investment interest only indirectly or in insignificant ways (*e.g.*, a merely theoretical diminution in the value of the regulatory asset or some kind of timing issue that modestly delays payment). For this reason, we have reintroduced the concept of "materiality" in the list of Guarantee Activation Events (now described as "Assumption Events").

- **Right of Subrogation** – We have added a provision to the Term Sheet making it clear that Ontario will be subrogated to the rights of Beneficiaries who receive payments under the guarantee. This ensures that the province will be entitled to pursue any civil remedies against third parties that may have been available to the Beneficiary in respect of such amounts.

- **"Assumption" of Obligations** – The provisions of the August Term Sheet stated that, upon the occurrence of a Guarantee Activation Event, Ontario "assume and pay" all of the obligations of the Financing Entity. This language seems to intend that the province would directly assume all of the Financing Entities obligations to the Indenture Trustee and bondholders. The OFA has previously indicated that Ontario is only willing to commit to pay the principal and interest obligations of the Financing Entity as they come due, and not to replace the Financing Entity and become directly liable for all its obligations (except at its own option as discussed below). We have revised the Term Sheet to reflect this more limited commitment.

- **Optional Replacement** – We have added to the Term Sheet an optional right on the part of the province to assume all of the rights and liabilities of the Financing Entity, without the need for any further consent or approval of the Indenture

Trustee. This would provide Ontario with greater flexibility in determining how to deal with any claims arising under the guarantee, without imposing this more onerous obligation on the province.

- **Approval Requirements** – We have revised the approval requirement section of the Term Sheet to modestly strengthen Ontario's rights associated with the process for approving future transactions that will be covered by the provincial assurance agreement.

- **Warehousing/Commingling Risks** – The August Term Sheet included a series of provisions dealing with ongoing business concerns associated with debt warehousing risks and LDC credit rating commingling. As far as we are aware, the arrangements contemplated in these sections have not been agreed to by Ontario and it is not helpful to link them in this way to the ongoing negotiations around the proposed guarantee. For this reason, we have deleted them from the Term Sheet.

E. Recommendations and Next Steps

- MOF-LSB will be arranging a meeting with the OFA as early as practicable next week to discuss the communication of these comments and the revised draft Term Sheet to OPG.

Date: August 31, 2017

Prepared by: Tom McKinlay, General Counsel
Legal Services Branch, Ministry of Energy
416-212-5766

Approved by: Carolyn Calwell, Director
Legal Services Branch, Ministry of Energy
416-212-8392

APPENDIX "A"

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.

From:	Hresa Gavaris
To:	Gadi Mayman; Ronald Kwan; Mike Manning; Ken Kandeepan; Anna Strathy; Gavin He; Angie Georgakakos
Subject:	Fair Hydro Plan

As per Gadi's email.

From:	Hresa Gavaris
To:	Gadi Mayman; Ronald Kwan; Mike Manning; Ken Kandeepan; Anna Strathy; Gavin He; Angie Georgakakos; James Devine
Cc:	John Kim
Subject:	Fair Hydro Plan

As per Gadi's email.

From:	Anna Strathy
To:	"Cindy.Veinot@ontario.ca"; Steen Hume (CAB); Keley Katona (ENERGY); Malle Hanslep (MOF)
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Deena Padamadan; Tobias P. Whitfield (MOF); Hosick, Sarah (TBS); "Montgomery, Kaitlin (MOF)"; Matthew Breadner
Subject:	For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, August 17, 2017 12:51:33 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017).doc

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees to one or more OPG Financing Entities established to perform under the Ontario Fair hydro Plan Act and such entity or entities prospective debt holders, that, under certain circumstances, the Province would assume the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly.

To this end, immediate rate relief to eligible ratepayers is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to TB/MBC as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future. Under the Act, a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and

- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt will increase by an amount equal to the contingent liability at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and

interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From: Ronald Kwan
To: John Kim
Subject: Fw: Draft Provincial Guarantee Deck
Date: Wednesday, August 23, 2017 4:41:35 PM

Hi John,

FYI.

Ron

From: Ronald Kwan
Sent: August 23, 2017 4:41 PM
To: Anna Strathy
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.

I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and what about the TB submission too?).

Also, I would suggest that the slide on the IESO and LC note that the proposal was from OPG and the IESO was going to review the proposal (unless Keley has now heard back from the IESO and the option is fine with them?).

Generally, then, it might be good to note the work-in-progress status.

And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

From: Anna Strathy
Sent: August 23, 2017 4:17 PM
To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

Hi All,

Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From:	Gadi Mayman
To:	Ronald Kwan; Mike Manning; James Devine; Carlos Yep; Ken Kandeepan; John Psinas
Cc:	Anna Strathy; Gavin He
Subject:	Fw: Draft Provincial Support Agreement
Date:	Friday, June 23, 2017 5:48:40 PM
Attachments:	23148306-v8-Term Sheet - Provincial Support Agreement - May 12.DOCX 23148306v1_Term Sheet - Provincial Support Agreement - May 12 - 23148306....pdf

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From: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>
Sent: Friday, June 23, 2017 5:31 PM
To: Carolyn Calwell (MCSS); Steen Hume (CAB); ASHBOURNE, STEPHEN; Gadi Mayman; JACKSON, ADAM
Subject: FW: Draft Provincial Support Agreement

fyi

From: Nelms, Scott (MOF)
Sent: June 23, 2017 5:03 PM
To: John Lee - Ontario Power Generation (john.s.lee@opg.com)
Subject: Draft Provincial Support Agreement

Hi John,

Please see the attached markup of the Provincial Support Agreement. This has been reviewed by lawyers and policy folks from Energy, MoF, OFA and TBS. Please treat this as an early draft designed to spur discussion. It takes some concepts up a level as we felt that some of the detail in the OPG draft should be settled once the specific loan documents were available for review.

I would suggest we find time to regroup with appropriate people to discuss once we are through regulation approvals next week.

Thanks and have a good weekend,

Scott

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Servicing Guarantees	
Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Servicing Guarantee:	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.
Term:	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.
Satisfaction of a 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 as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	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.

Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
Addressing Mismatches	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 Mismatches	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 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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Servicing Guarantees	
Servicing Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.
~~**Term:**~~	~~The Guarantor's obligations under the Provincial Support~~

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

	~~Agreement will continue until **[one year]**[1] after all 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**~~**Servicing Guarantee:**	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Servicing Guarantee, the Servicing Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, or cause the performance ~~of (which may be by way of the appointment of a replacement servicer)~~, of the obligations of IESO as servicer under ~~the MSSA and~~ 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Servicing Guarantee is held to be unenforceable against the Servicing Guarantor, the ~~Provincial Support Agreement~~Servicing Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Servicing Guarantor.
Term:	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

[1] ~~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.~~

	intended to be secured by the Servicing Guarantee.
Satisfaction of a 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 as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
~~**Payment Guarantee Event**~~**Indemnity of the Province:**	~~A Payment Guarantee Event will occur if~~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: (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
Term:	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.
~~**Payment Guarantee**~~**Satisfaction of an Indemnity:**	~~Upon the occurrence of a Payment Guarantee Event under clauses (A), (B) or (C) of the above definition:~~ The Indemnitor will have the option to satisfy its obligations under an Indemnity in respect of a funding obligation by: (x) ~~the Guarantor shall assume~~ assuming and ~~pay~~paying when due (without acceleration) ~~all funding obligations and all other obligations of the Financing Entities to the Beneficiaries by paying all~~the regularly scheduled amounts due and payable in respect ~~thereof~~of the funding obligation during the term ~~of each~~and to the extent of the applicable Financing Entity's contractual ~~obligation to such Beneficiaries; and~~obligations thereunder; or (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~~ 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 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~~. 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~~ up to the date of payment (without any default, penalty, prepayment or make whole ~~amounts~~premium).
Approval Requirement:	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.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the ~~Guarantor~~Indemnitor be obligated to indemnify any Beneficiary for consequential, special or punitive damages, or for economic loss 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Addressing Mismatches**	~~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~~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.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 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.
~~**Conditions Precedent to Closing:**~~**Documentation**	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.~~[2]
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Servicing Guarantor ~~is~~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 ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Servicing Guarantor or the Indemnitor, in connection with the

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

	~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

Document comparison by Workshare Compare on Friday, June 23, 2017 4:12:42 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/1
Description	TOR_2528-#23148306-v1-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/8
Description	TOR_2528-#23148306-v8-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	110
Deletions	87
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	197

From:	Gadi Mayman
To:	Carlos Yep; Ronald Kwan
Cc:	Anna Strathy; Hresa Gavaris; Ken Kandeepan; Mike Manning
Subject:	Fw: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date:	Wednesday, July 05, 2017 5:50:37 PM

From: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>
Sent: Wednesday, July 5, 2017 5:49 PM
To: Carolyn Calwell (MCSS); Steen Hume (CAB); Gadi Mayman; Ken Kandeepan; Tom McKinlay (MAG); Montgomery, Kaitlin (MOF); ASHBOURNE, STEPHEN; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF)
Cc: Karpowicz, Eva (MOF)
Subject: RE: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Good suggestion from Gadi – we should probably touch base internally in advance of meeting with OPG. I wonder if we could try for a quick 30 min phone call either tomorrow or Friday.

I will reach out to OPG to set something up for next week.

From: Nelms, Scott (MOF)
Sent: July 5, 2017 2:44 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Steen Hume (ENERGY) (Steen.Hume@ontario.ca); Mayman, Gadi (OFA) (Gadi.Mayman@ofina.on.ca); Kandeepan, Ken (OFA); McKinlay, Tom (ENERGY); Montgomery, Kaitlin (MOF); ASHBOURNE, STEPHEN
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi,

Please see the following comments from OPG / Torys on the guarantees.

I wonder if we are now at a point we should suggest sitting down with OPG on this perhaps early next week.

Thanks,
Scott

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: June 30, 2017 3:12 PM
To: Nelms, Scott (MOF)
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; HAHN PARKER Janet -TREASURY
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Scott:

Further to our discussion on the outstanding issues, please find below the comments from the Dealers on the "Markup" of the Provincial Protection and Assurance term sheet.
As noted below, the next step should be to get the appropriate parties from the Province to sit down with the dealers and OPG to go over the points and agree on a basis to move forward.
We should try to do that sometime next week. Let us know what times work on the Province side and we will coordinate with the Dealers & counsels.

John

From: Mansoori, Nina [mailto:nmansoori@torys.com]
Sent: Friday, June 30, 2017 12:24 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
Subject: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

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John/Les/Ken,

Please find below an issues list on the Province's comments on the Provincial Protection and Assurances Term Sheet (formerly the Provincial Support Agreement). This list reflects input from the dealers, Oslers and Torys. Please let us know if you have any additional comments or questions. If not, will you be reaching out to the Province to schedule a meeting next week (with the dealers, OPG, the Province and their counsels) to discuss these points? The dealers and their counsel don't see value in exchanging further drafts of the term sheet until they have had an opportunity to meet with the Province. We agree with this approach and are happy to assist in coordinating a meeting for next week. It would also be helpful to hear the Province's rationale and concerns for making some of these changes. Please let us know.

Many thanks,
Nina

1. The Servicing Guarantee:

(a) It is written in favour of only the financing entity. However, in the MTSA, we are asking for covenants directly in favour of Indenture Trustee. The Indenture Trustee/specified creditors should have the direct benefit of the guarantee rather than relying on an indirect security interest in the servicing guarantee.

(b) It should be clarified that the servicing obligations of the electricity vendors are covered.

(c) If the guarantee is unenforceable, we should fall back to an indemnity, not a "functionally equivalent direct covenant" which is an uncertain concept.

(d) We don't want an exclusion for economic loss. That may cover whatever losses the specified creditors do suffer.

2. Change of Law.

(a) This should be written as a guarantee not an indemnity.

(b) It should be directly in favour of the Indenture Trustee/specified creditors and it should cover all the "finance amount" and not just funding obligations.

(c) We do not want the guarantee to be provided by another entity which is in turn guaranteed by Ontario. It should come directly from Ontario.

(d) There should be no "materiality" threshold for a claim. If obligations are not paid in full, then there should be a claim.

(e) The choice to assume or accelerate should be at the option of the holders, not the guarantor.

(f) If accelerated, then the 1% premium should be payable. This is a voluntary termination by the Province.

3. Undertaking Regarding Mismatches (market disruption)

(a) At best this structure defers the discussion of protection for a market disruption. At worst, it is impractical that take-out financing needs to be arranged in advance of each warehouse financing. We should rely on a definition of market disruption.

4. Approvals.

(a) Province to clarify what is contemplated under the heading "Approval Requirement". Is Province proposing to approve any obligation incurred by the Financing Entity?

(b) Approval under Section 28 of the *Financial Administration Act* to be attained (in case the OFHPA is declared void in its entirety).

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From:	Ronald Kwan
To:	John Kim
Subject:	Fw: EXTERNAL – Revised Term Sheet & summary slides
Date:	Tuesday, August 15, 2017 10:09:04 AM

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks
>
> Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From: Gadi Mayman
To: Ronald Kwan; Ken Kandeepan
Cc: Christina Zhang; David McLean (MOF); Christopher Pearce (MOI); Gavin He
Subject: Fw: Financial Advisor
Date: Friday, March 24, 2017 9:35:51 AM

FYI. More money to potentially be spent.

Original Message
From: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Sent: Friday, March 24, 2017 9:34 AM
To: Scott Nelms (ENERGY)
Cc: Nancy Kennedy (MOHLTC); Mike Manning
Subject: Re: Financial Advisor

I'm not sure how much value added that any of these boutiques would provide. The people that know the markets are the investment bankers that are actually going to be part of the syndicate that will have to market, sell and trade these bonds. Why not have one of TD, Scotia, National or BMO provide this double-checking? If we're worried about the conflict that they are going to give advice that will make it easier to sell the bonds to ultimately make their life as syndicate members easier, then I can see the potential attraction of an advisor that isn't in that business, but why can't Alan be that guy? I don't see that any of those that you've named would provide better external advice to the Province than he would, unless we're concerned that he's too embedded with OPG, but I don't think so.

As for the names you've mentioned, Hansel, if that turns out to be the third one, is run by a lawyer which might be helpful, but I don't know if they know much about bonds, maybe that's where Bill Gula comes in, Blair Franklin definitely knows bonds, as Fred Mifflin used to be head of government Finance at BMO many years ago and they advised the Feds on Muskrat Falls, and I haven't heard of Origin.

I've added Mike, because he knows way more about the bond market and what investors will want than anyone we've talked about in this exchange, so he may have some ideas as to where the Province should go for external advice.

Hope that helps.

Gadi
Original Message
From: Nelms, Scott (MOF)
Sent: Friday, March 24, 2017 8:45 AM
To: Gadi Mayman
Cc: Nancy Kennedy (MOHLTC)
Subject: RE: Financial Advisor

Hi Gadi,

Energy and Blakes suggest that the Province needs its own financial advisor to test what we are hearing from OPG. As I understand it, there are some elements that OPG believes are requirements in the legislation. The Province would like someone with a market perspective (in addition to your team) that can test the need for each of those requirements as they arise. Given timing, they need someone who can be available in real time to provide this advice.

I will circle back as to whether that is Hansell and not Hanslep. Let me know if there are other names that you might suggest.

Scott

Sent with BlackBerry Work (www.blackberry.com)

From: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>
Date: Thursday, Mar 23, 2017, 5:57 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>

Cc: Kennedy, Nancy (MOF) <Nancy.Kennedy@ontario.ca<mailto:Nancy.Kennedy@ontario.ca>>
Subject: Re: Financial Advisor

Hi Scott, what is it that we're looking for from a financial advisor? Is this to help with the structuring of OPG Trust's debt issuance? I know Blair Franklin, and they advised Canada on Muskrat Falls. I'm not familiar with Origin, and I don't know Bill Gula, but is that Hansell LLP, not Hanslep?

In any case, I'm not sure what any of them bring to the table beyond what the three banks already engaged would provide, with Alan and the OFA weighing in when their inevitable conflicts get in the way?

I'd be happy to discuss further to get more colour on what you're looking for.

Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Thursday, March 23, 2017 2:26 PM
To: Gadi Mayman
Subject: FW: Financial Advisor

Hi Gadi,

Have you had any dealings with the financial folks listed below? If so any thoughts?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIF_g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=3CXvpkRBdXO8bo6dIvXPkZDYa_kYL1UPZc_YCOdjLsg&s=QjbgTIleYB-TAsaUYgd3FdIujgwRRK1DPI5zTAO82fU&e= >)

From: Imbrogno, Serge (ENERGY) <Serge.Imbrogno@ontario.ca<mailto:Serge.Imbrogno@ontario.ca>>
Date: Thursday, Mar 23, 2017, 1:13 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI) <Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>
Cc: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Katona, Keley (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>
Subject: Financial Advisor

Hi,

I spoke with Alan Hibben. He's fully engaged on the file with OPG. He suggested three other firms/people -- Origin Financial, Blair Franklin, and Bill Gula (Hanslep LLP). Carolyn, suggest you chat with Judy if Blakes has worked with any of the above. Scott, you could talk to Gadi etc if he has some thoughts on the above as well.
Let's group after your chats.
Serge

Sent from my iPad

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From:	Gadi Mayman
To:	Mike Manning; Ken Kandeepan; Ronald Kwan
Cc:	Anna Strathy
Subject:	Fw: Guarantee
Date:	Friday, April 21, 2017 2:39:42 PM
Attachments:	LAWS OF THE STATE OF NEW YORK - CHAPTER 173 OF 2013.docx summary of securitization provisions in LIPA Reform Act.docx Summary of Duke Energy Securitization.docx Moody"s - Securities Backed by Utility Cost Recovery Charges Jun 2015.pdf Moody"s - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf Moody"s - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf Moody"s - Duke Energy Florida Project Finance, LLC Series A Bonds.pdf S&P - List of S&P Rated Stranded Cost Transactions (2013).pdf S&P - Securitizing Stranded Costs_S&P Criteria (2001).pdf Fair Hydro Plan Act (April 20 2017) Consultation v3.docx

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From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 2:38 PM
To: Gadi Mayman; Anna Strathy
Cc: Tobias P. Whitfield (MOF); Michael Waterston (MOF)
Subject: FW: Guarantee

Some more information sent by Carolyn.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.95.html[leg.state.fl.us] .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation.

Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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ASSEMBLY BILL #**A8073** SAME AS SENATE BILL #**S5844**

LAWS OF NEW YORK, 2013

CHAPTER 173

AN ACT to amend the public service law, the public authorities law, the executive law and the education law, in relation to the powers and duties of the department of public service and the Long Island power authority; to repeal subdivision (u) of section 1020-f of the public authorities law relating to general powers of the authority; and providing for the repeal of certain provisions upon expiration thereof (Part A); and in relation to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority (Part B)

Became a law July 29, 2013, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation relating to issues deemed necessary by the state. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with a particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found.

Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 3 of the public service law, as amended by chapter 8 of the laws of 2012, is amended and a new section 3-b is added to read as follows:

§ 3. Department of public service. [~~1.~~] There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.

[~~2. The department shall, upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of said authority pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or~~

EXPLANATION--Matter in ***italics*** is new; matter in brackets [-] is old law

to be omitted.

~~CHAP. 173 2~~

~~by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the Long Island power authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.~~]

§ 3-b. Long Island office of the department.

1. There is hereby established in the department an office to review and make recommendations with respect to the operations and terms and conditions of service of, and rates and budgets established by, the Long Island power authority and/or its service provider.

2. Definitions. As used or referred to in this section:

(a) "Authority" means the Long Island power authority.

(b) "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract. However, the service provider and any affiliate of the service provider with whom the authority or service provider contracts to provide services associated with the authority's electric transmission and distribution system shall not be considered an electric corporation under this chapter.

(c) "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the Long Island power authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

3. General powers. In undertaking the requirements of this section, subject to subdivisions (u) and (bb) through (hh) of section one thousand twenty-f of the public authorities law, the department shall be empowered and authorized to:

(a) Review and make recommendations to the board of the Long Island power authority with respect to the rates and charges, including charges related to energy efficiency and renewable energy programs, to be established by the authority and become applicable on or after January first, two thousand sixteen pursuant to subdivision (u) of section one thousand twenty-f of the public authorities law.

(i) The purpose of such review is to make recommendations designed to ensure that the authority and the service provider provide safe and adequate transmission and distribution service at rates set at the lowest level consistent with sound fiscal operating practices.

(ii) The department's recommendations shall be designed to be consistent with ensuring that the revenue requirements related to such rate review are sufficient to satisfy the authority's obligations with respect to its bonds, notes and all other contracts.

(iii) In the context of such review, the department may not make any recommendation that would modify the compensation or fee structure included within the operations services agreement.

(iv) In undertaking such review and in making recommendations related to the proposed rates and charges, the department shall establish standards,

policies and procedures that, at a minimum, provide for public statement and evidentiary hearings and participation of intervenors and other parties, and ensure that any final recommendations related to the proposed rates and charges are provided to the authority within two hundred forty days of the filing with the department of such plan.

(v) The parties to any such rate review proceeding shall include, but not be limited to, department staff, the authority, the service provider and, to the extent it deems necessary or appropriate, the utility intervention unit.

(b) Review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the service provider as in the department's judgment allows for safe and adequate service.

(c) Annually review the emergency response plan of the authority and the service provider in accordance with the following requirements:

(i) Examine and determine whether the emergency response plan is consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of this chapter and any regulations or orders promulgated thereto, and to recommend amendments of same; and

(ii) Review and make recommendations to the authority with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and its service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, the reasonableness of costs associated with such emergency response, the costs, if any, that were unreasonably and imprudently incurred by the service provider, and whether the service provider would be liable for any such costs pursuant to the terms and conditions of the operations services agreement.

(d) Upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of the authority and service provider pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department

according to such terms as the department may determine are necessary and reasonable.

(e) Accept, investigate, mediate to resolve and make recommendations to the Long Island power authority and/or the service provider regarding the resolution of complaints from consumers in the authority's service

territory relating to, among other things, the provision of electric service provided by the service provider and/or the authority.

(f) Review the net metering program implemented under subdivision (h) of section one thousand twenty-g of the public authorities law and make recommendations designed to ensure consistency with the requirements of sections sixty-six-j and sixty-six-l of this chapter, and any regulations and orders adopted thereto.

(g) Review and make recommendations with respect to any proposed plan submitted by the Long Island power authority and/or the service provider related to implementation of energy efficiency measures, distributed generation or advanced grid technology programs having the purpose of providing customers with tools to more efficiently and effectively manage their energy usage and utility bills, and improving system reliability and power quality.

(h) Review the data, information and reports submitted pursuant to subdivision (hh) of section one thousand twenty-f of the public authorities law and other pertinent information related to the metrics in the operations services agreement, the Long Island power authority's evaluation of such data, information and reports, and make recommendations to the authority with respect to the service provider's annual incentive based compensation within thirty days of receipt of such evaluation and information.

4. Review and inspection. To undertake the requirements of subdivision two of this section, the department shall be authorized to inspect all premises and facilities owned or operated by the authority and the service provider, review all books and records of the authority and the service provider, interview all appropriate personnel, and require annual reporting consistent with the requirements of subdivision six of section sixty-six of this chapter and any regulations and orders adopted thereto; provided, however, that this authority shall not extend to affiliates of the service provider.

§ 2. Subdivision 2 and paragraph (b) of subdivision 6 of section 18-a of the public service law, subdivision 2 as amended by section 2 of part NN of chapter 59 of the laws of 2009 and paragraph (b) of subdivision 6 as amended by section 1 of part BB of chapter 59 of the laws of 2013, are amended and a new subdivision 1-a is added to read as follows:

1-a. All costs and expenses of the department related to the department's responsibilities under section three-b of this chapter shall be paid pursuant to appropriation on the certification of the chairman of the department and upon the audit and warrant of the comptroller. For the state fiscal year beginning on April first, two thousand fourteen and each state fiscal year thereafter, payments are to be made from all moneys collected from the Long Island power authority pursuant to this section. The total of such costs and expenses shall be assessed on such authority in the manner provided in subdivisions two, three and four of this section.

2. (a) The chairman of the department shall estimate prior to the start of each state fiscal year the total costs and expenses, including the compensation and expenses of the commission and the department, their officers, agents and employees, and including the cost of retirement contributions, social security, health and dental insurance, survivor's benefits, workers' compensation, unemployment insurance and other fringe

benefits required to be paid by the state for the personnel of the commission and the department, and including all other items of maintenance and operation expenses, and all other direct and indirect costs. Based on such estimates, the chairman shall determine the amount

to be paid by each assessed public utility company **and the Long Island power authority** and a bill shall be rendered to each such public utility company **and authority**.

(b) The bill for each public utility company **and the Long Island power authority** shall be rendered on or before February first preceding each fiscal year, and shall be for the amount equal to the product of the aforesaid estimated costs and expenses of conducting the department's and commission's total operations during the fiscal year for which billing is being made multiplied by the proportion which compares:

(1) the gross operating revenues, over and above five hundred thousand dollars, for that utility company **or the authority** derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to:

(2) the total of the gross operating revenues, derived from intrastate utility operations for all utility companies **and the authority** in the state which revenues are included under subparagraph one of this paragraph.

For the purposes of calculating the commodity cost component of its gross operating revenue, where the utility delivers to end-use customers electricity and/or natural gas commodities that are sold to such customers by a third party, such utility shall include in its revenues an estimate of the sales revenue for the electric and/or natural gas commodities that it delivers, including all such commodities sold to end-use customers by third parties, in such manner as to assure that all end-use delivery customers, regardless of the entity from which they purchase their electric and/or natural gas commodities, bear a fair and proportionate share of the assessment imposed herein, as the commission may determine.

(c) The minimum assessment for any utility company**, as well as the Long Island power authority,** whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

(d) The amount of such bill for fiscal years beginning on or after April first, nineteen hundred eighty-three so rendered shall be paid by such public utility company **and such authority** to the department on or before April first; provided, however, that [~~a~~] **any such** utility company **or such authority** may elect to make partial payments for such costs and expenses on March tenth of the preceding fiscal year and on September tenth of such fiscal year. Each such partial payment shall be a sum equal to fifty percentum of the estimate of costs and expenses to be assessed against such utility company **or authority** under the provisions of this subdivision and shall not be less than two hundred dollars.

(e) During the course of any state fiscal year, the chairman may increase or decrease the estimate of costs and expenses. In such case, revised bills shall be sent to each public utility company **and such authority**, and such increase or decrease shall be equally apportioned against the remaining payments for such fiscal year.

(f) On or before October tenth of each year, the chairman shall compute the actual costs and expenses of the department and the commission and adjustments or other corrections as needed for the preceding state fiscal year and, after deducting the amounts recovered pursuant to subdivisions three and four of this section, shall, on or before October twentieth, send to each public utility company **and/or the authority** affected thereby a

statement setting forth the amount due and payable by, or the amount standing to the credit of, such public utility company **and/or the authority**. Any amount owing by any public utility company

and/or the authority shall be paid not later than thirty days following the date such statement is received. Any such amount standing to the credit of any public utility company shall be refunded by the commission or, at the option of such utility company, shall be applied as a credit against any succeeding payment due.

(g) The total amount which may be charged to any public utility company **and the Long Island power authority** under authority of this subdivision for any state fiscal year shall not exceed one per centum of such public utility company's **or authority's** gross operating revenues derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman; provided, however, that no corporation or person that is subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the general assessment provided for under this subdivision.

Notwithstanding the provisions of subdivision one of this section, for telephone corporations as defined in subdivision seventeen of section two of this article, the total amount which may be charged such corporations for department expenses under the authority of subdivision one of this section for any state fiscal year shall not exceed one-third of one percentum of such corporation's gross operating revenue, over and above five hundred thousand dollars, derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman.

(h) On-bill recovery charges billed pursuant to section sixty-six-m of this chapter shall be excluded from any determination of an entity's gross operating revenues derived from intrastate utility operations for purposes of this section.

(b) The temporary state energy and utility service conservation assessment shall be based upon the following percentum of the utility entity's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, minus the amount, if any, that such utility entity is assessed pursuant to subdivisions one and two of this section for the corresponding state fiscal year period: (1) two percentum for the state fiscal year beginning April first, two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) one and three-quarters percentum for the state fiscal year beginning April first, two thousand fifteen; and (3) one and one-half percentum for the state fiscal year beginning April first, two thousand sixteen. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, utility entities shall make a payment equal to one-half of the assessment paid by such entities pursuant to this paragraph for the state fiscal year beginning on April first, two thousand sixteen. With respect to the Long Island power authority, the temporary state energy and utility service conservation assessment shall be based upon the following percentum of such authority's gross operating revenues derived from intrastate utility operations in the last preceding calendar year**, minus the amount, if any, that such authority is assessed pursuant to subdivisions one-a and two of this section for the corresponding state fiscal year period**: (1) one percentum for the state fiscal year beginning April first,

two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) three- quarters of one percentum for the state fiscal year beginning April

first, two thousand fifteen; and (3) one-half percentum for the state fiscal year beginning April first, two thousand sixteen**; provided, however, that should the amount assessed by the department for costs and expenses pursuant to such subdivisions equal or exceed such authority's temporary state energy and utility service conservation assessment for a particular fiscal year, the amount to be paid under this subdivision by such authority shall be zero**. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, the Long Island power authority shall make a payment equal to one-half of the assessment it paid for the state fiscal year beginning on April first, two thousand sixteen. No corporation or person subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the temporary state energy and utility service conservation assessment provided for under this subdivision. Utility entities whose gross operating revenues from intrastate utility operations are five hundred thousand dollars or less in the preceding calendar year shall not be subject to the temporary state energy and utility service conservation assessment. The minimum temporary state energy and utility service conservation assessment to be billed to any utility entity whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

§ 3. Section 1020-b of the public authorities law is amended by adding two new subdivisions 23 and 24 to read as follows:

23. "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract.

24. "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

§ 4. Section 1020-d of the public authorities law, as added by chapter 506 of the laws of 1995, is amended to read as follows:

§ 1020-d. [~~Trustees~~] **Board of trustees**.

1. [~~The~~] **Starting on January first, two thousand fourteen, the board of the** authority shall **be constituted and** consist of [~~fifteen~~] **nine** trustees all of whom shall be residents of the service area, [~~nine~~] **five** of whom shall be appointed by the governor, one of whom the governor shall designate as [~~chairman~~] **chair**, and serve at his **or her** pleasure, [~~three~~] **two** of whom shall be appointed by the temporary president of the senate, and [~~three~~] **two** of whom shall be appointed by the speaker of the assembly. [~~Two~~] **One** of the governor's appointees shall serve an initial term of [~~one year~~] **two years**; [~~two~~] **one** of the governor's appointees shall serve an initial term of [~~two~~] **three** years; [~~two~~] **and three** of the governor's appointees shall serve an initial term of [~~three~~] **four** years[~~; and three of the governor's appointees shall serve an initial term of four years~~]. [~~Two~~] **One** of the appointees of the temporary president of the senate and [~~two~~] **one** of the appointees of the speaker of the assembly shall serve initial terms of [~~one year~~] **two years**;

and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of [~~two~~] **three** years. Thereafter, all terms

shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.

2. No trustee shall receive a salary, but each shall be entitled to reimbursement for reasonable expenses in the performance of duties assigned hereunder.

3. Notwithstanding the provisions of any other law, no trustee, officer or employee of the state, any state agency or municipality appointed a trustee shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of a trusteeship on the authority, his or her service thereon or his or her employment therewith.

4. All trustees appointed under this section shall have relevant utility, corporate board or financial experience.

§ 5. On or before December 1, 2013 the governor, the temporary president of the senate and the speaker of the assembly shall choose and announce their appointments to the board of the Long Island power authority to be made pursuant to section 1020-d of the public authorities law, as amended by section four of this act, giving due consideration to continuity of business. The board of trustees of the Long Island power authority in existence on December 31, 2013, shall be abolished on such date and be constituted on January 1, 2014 pursuant to section 1020-d of the public authorities law, as amended by section four of this act.

§ 6. Subdivision (u) of section 1020-f of the public authorities law is REPEALED.

§ 7. Subdivisions (c) and (bb) of section 1020-f of the public authorities law, subdivision (c) as amended by chapter 506 of the laws of 2009 and subdivision (bb) as added by chapter 8 of the laws of 2012, are amended and seven new subdivisions (u), (cc), (dd), (ee), (ff), (gg) and (hh) are added to read as follows:

(c) To appoint officers, agents and employees, without regard to any personnel or civil service law, rule or regulation of the state and in accordance with guidelines adopted by the authority, prescribe their duties and qualifications and fix and pay their compensation [~~**, provided, however, that the appointment of the chief executive officer shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter;**~~]**. By January first, two thousand fourteen, the authority, through its governance committee, shall amend such guidelines to require that staffing at the authority is kept at levels only necessary to ensure that the authority is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and oversee the activities of the service provider**;

(u) Rate plans. Subject to subdivision six of section one thousand twenty-k of this title to fix rates and charges for the furnishing or rendition of gas or electric power or of any related service at the lowest level consistent with sound fiscal and operating practices of the authority and which provide for safe and adequate service. In implementing this power:

1. The authority and the service provider shall, on or before February first, two thousand fifteen, submit for review to the department of public service a three-year rate proposal for rates and charges to take effect on or after January first, two thousand sixteen.

2. The authority and the service provider shall thereafter submit for review to the department of public service any rate proposal that would increase the rates and charges and thus increase the aggregate revenues of the authority by more than two and one-half percent to be measured on an annual basis; provided, however, that the authority may place such rates and charges into effect on an interim basis, subject to prospective rate adjustment; provided, further, that a final rate plan issued by the authority that would not so increase such rates and charges shall not be subject to the requirements of paragraph four of this subdivision and shall be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The authority and/or the service provider may otherwise submit for review to such department any rate proposal irrespective of its effect on revenues.

3. The authority shall not fix any final rates and charges proposed that would not be subject to review by the department of public service pursuant to paragraphs one and two of this subdivision until after holding public hearings thereon upon reasonable public notice, with at least one such hearing to be held each in the county of Suffolk and the county of Nassau.

4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of its final rate plan and such final determination shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency.

At such hearing, the department of public service shall present the basis for its recommendations, the board shall present the basis for its determination of inconsistency and the service provider may present its position. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(bb) Comprehensive and regular management and operations audits.

1. The authority **and the service provider** shall cooperate in the undertaking and completion of a regular and comprehensive management and operations audit conducted pursuant to the requirements of this subdivision and [~~subdivision two of section three~~] **paragraph (d) of subdivision three of section three-b** of the public service law. Such audit shall review and evaluate the [~~authority's~~] overall operations and management

of the authority and service provider, including [~~the authority's~~] such operations and management in the context of [~~its~~] the authority's duty to set rates at the lowest level consistent with standards and procedures provided in subdivision (u) of this section, and include, but not be limited to: (i) the [~~authority's~~] service provider's construction and capital program planning in relation to the needs of [~~its~~] customers for reliable service; (ii) the overall efficiency of the authority's and service provider's operations; (iii) the manner in which the authority is meeting its debt service obligations; (iv) the authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the authority's and service provider's annual budgeting procedures and process; (vi) the application, if any, of the performance metrics designated in the operations services agreement and the accuracy of the data relied upon with respect to such application; and [~~(vi)~~] (vii) the authority's compliance with debt covenants.

2. The department of public service shall notify the authority that said department is in the process of initiating a comprehensive management and operations audit as described in paragraph one of this subdivision in a manner that ensures the timeliness of such audit, and in accordance with the following timeframe: the first comprehensive management and operations audit shall be initiated as of the effective date of [~~this subdivision~~] chapter eight of the laws of two thousand twelve and undertaken in a manner and to an extent that is practicable in the context of the authority's transition to a new management service structure; the second comprehensive management and operations audit shall be initiated no later than December fifteenth, two thousand [~~fifteen~~] sixteen; and all additional comprehensive management and operations audits shall be initiated at least once every five years thereafter.

Within a reasonable time after such notification to the authority, said department or the independent auditor retained by the authority to undertake such audit shall hold public statement hearings, with proper notice, in both Nassau and Suffolk counties for the purpose of receiving both oral and written comments from the public on matters related to such audit as described in paragraph one of this subdivision.

3. Each such audit shall be completed within eighteen months of initiation absent an extension for good cause shown by the department of public service or the independent auditor under contract with the authority with notice of such extension to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the authority and the department of public service. Such audit shall be provided to the board of the authority immediately upon its completion.

The department of public service shall provide notice of completion of such audit to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and assembly, and the authority, upon receipt of such audit, shall post a copy of such audit, including findings and recommendations, on its website and the website of the service provider. Unless the board of the authority makes a preliminary determination that any particular finding or recommendation contained in such audit is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligation, or the provision for safe and adequate service, the board shall implement or cause its service provider to implement such findings and recommendations in accordance with the timeframe specified under such audit.

4. The board of the authority shall make any preliminary determination of inconsistency with respect to any such finding or recommendation

within thirty days of receipt of the audit, with notice and the basis of such determination being provided to the department of public service.

Such notice and basis shall be posted contemporaneously on the authority's website **and the website of the service provider** and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency **and the service provider may present is position**. The authority**, service provider** and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The [~~**board's**~~] **authority's** final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, prepare and maintain an emergency response plan (i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where wide-spread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider.

2. On or before February third, two thousand fourteen, the authority and service provider shall submit an emergency response plan to the department of public service for review. Contemporaneously with such submission, the authority shall provide notice of such proposed plan to the secretary of state for publication in the state register, the authority and service provider each shall post such plan on their websites and otherwise make such plan available for review in-person, and afford members of the public an opportunity to submit written comments and oral comments pursuant to at least one hearing to be held each in the county of Suffolk and the county of Nassau. Such written comments must be submitted by March fourteenth, two thousand fourteen.

The authority and service provider shall provide a copy of all written comments they receive and a transcript of such public hearings to the department of public service for its consideration in reviewing the emergency response plan. The department shall provide any recommendations to the authority and service provider with respect to such plan on or before April fifteenth, two thousand fourteen. Such plan must be made final by June second, two thousand fourteen. For each year thereafter, the service provider shall submit an emergency response plan to the department of public service, and such department shall provide its recommendations, in accordance with a schedule to be established by such department and that is consistent with the schedule associated with such department's review of similar such plans provided by electric corporations pursuant to subdivision twenty-one of section sixty-six of the public service law.

3. By June second, two thousand fourteen, and by June first annually thereafter, the authority and service provider shall jointly certify to the department of homeland security and emergency services that the emergency response plan ensures, to the greatest extent feasible, the timely and safe restoration of energy services after an emergency consistent with the requirements of paragraph (a) of subdivision twenty-one of the public service law and the department's recommendations. The filing of such emergency response plan shall also include a copy of all written mutual assistance agreements among utilities. The authority and service provider shall file with the county executives of Nassau and Suffolk county and the mayor of the city of New York the most recent version of the emergency response plan, and make sure that such amended versions are timely filed.

4. Starting in calendar year two thousand fourteen, the service provider annually shall undertake at least one drill to implement procedures to practice its emergency response plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials.

5. If, during an emergency event, electric service is not restored in three days, the service provider shall within sixty days from the date of full restoration file with the department a report constituting a review of all aspects of the preparation and system restoration performance during the event, and shall thereafter take into consideration any recommendations made by the department associated with such review.

(dd) On or before January first, two thousand fifteen, and by January first of each calendar year thereafter, to submit for review to the department of public service a report detailing the service provider's planned capital expenditures.

(ee) On or before July first, two thousand fourteen, and annually thereafter, to submit for review to the department of public service any proposed plan related to implementing energy efficiency measures, distributed generation or advanced grid technology programs for the purpose provided pursuant to paragraph (g) of subdivision three of section three-b of the public service law.

(ff) To assist and cooperate with the department of public service with respect to any review undertaken pursuant to section three-b of the public service law, including providing the department with reasonable access to all facilities and premises owned or operated by the authority or its service provider, allowing review of all books and records of the authority and its service provider, providing copies of requested documents, allowing interviews of all appropriate personnel, and responding in a reasonable and timely manner to any inquiries or reporting requests made by the department; provided, however, that the obligations set forth in this subdivision shall not extend to affiliates of the service provider.

(gg) Renewable generation and energy efficiency programs. 1. The authority in coordination with the service provider, the power authority of the state of New York and the New York state energy research and development authority shall, to the extent the authority's rates are sufficient to provide safe and adequate transmission and distribution service, and the measures herein, undertake actions to design and administer renewable energy and energy efficiency measures in the service area, with the goal of continuing and expanding such measures that cost-effectively reduce system-wide peak demand, minimize long-term fuel price risk to rate payers, lower emissions, improve environmental quality, and seek to meet New York state climate change and environmental

goals. Such actions shall also include implementation of any renewable energy competitive procurement or feed-in-tariff programs that were approved by the authority as of the effective date of the chapter of the laws of two thousand thirteen which added this subdivision.

2. The service provider shall consider, consistent with maintaining system reliability, renewable generation and energy efficiency program results and options in establishing capital plans.

(hh) Starting in calendar year two thousand fifteen, the authority and the service provider shall submit to the department of public service for review, any and all data, information and reports which set forth the service provider's actual performance related to the metrics in the operations services agreement, including the authority's evaluation thereof, no less than forty-five days prior to the authority's determination of the service provider's annual incentive compensation.

§ 8. Section 1020-q of the public authorities law, as added by chapter 517 of the laws of 1986 and subdivision 2 as amended by section 19 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

§ 1020-q. Payments in lieu of taxes. 1. Each year after property theretofore owned by LILCO is acquired by the authority by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred, [~~except for such taxing jurisdictions which tax the Shoreham plant,in which case the in lieu of tax payments shall in the first year after the acquisition be equal to one hundred percent of the taxes and assessments which would have been received by such taxing jurisdictions. In each succeeding year such in lieu of tax payments shall be decreased by ten percent until such time as such payments equal taxes and assessments which would have been levied on such plant in a nonoperative state~~] provided, however, that for the calendar year starting on January first, two thousand fifteen, and for each calendar year thereafter, such payments in lieu of taxes shall not exceed the in lieu of tax payments made to such municipalities and school districts in the immediately preceding year by more than two percent.

2. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed [~~upon LILCO, if LILCO were to continue in operation,~~] pursuant to sections one hundred eighty-six-a and one hundred eighty-six-c of the tax law, and to former [~~sections one hundred eighty-six and~~] section one hundred eighty-six-b of the tax law as such [~~sections one hundred eighty-six and one hundred eighty-six-b were~~] section was in effect on December thirty-first, nineteen hundred ninety-nine, [~~paragraph (b) of subdivision four of section one hundred seventy-four of the navigation law,~~] and any taxes imposed by a city pursuant to the authorization granted by section twenty-b of the general city law.

3. No municipality or governmental subdivision, including a school district or special district, shall be liable to the authority or any other entity for a refund of property taxes originally assessed against the Shoreham plant. Any judicial determination that the Shoreham plant assessment was excessive, unequal or unlawful for any of the years from nineteen hundred seventy-six to the effective date of this title shall not result in a refund by any taxing jurisdiction of taxes previously paid by LILCO pursuant to such Shoreham plant assessment. The authority shall discontinue and abandon all proceedings, brought by its predecessor

in interest, which seek the repayment of all or part of the taxes assessed against the Shoreham plant.

§ 9. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined there-in, (b) article ten of such law applies to the siting of a generating facility as defined therein, [~~and~~] (c) section eighteen-a of such law provides for assessment for certain costs, property or operations**, and (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law**.

§ 10. Section 1020-w of the public authorities law, as added by chapter 517 of the laws of 1986, is amended to read as follows:

§ 1020-w. Audit and annual reports. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the [~~state division of the budget~~] **authority, upon recommendation of its finance and audit committee**. The authority shall submit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly and the county executives and governing bodies of the counties of Suffolk and Nassau, a detailed report pursuant to the provisions of section two thousand eight hundred of [~~title one of article nine of~~] this chapter, which report shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of [~~title one of article nine of~~] this chapter.

§ 11. Section 1020-cc of the public authorities law, as amended by chapter 413 of the laws of 2011, is amended to read as follows:

§ 1020-cc. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law.

1. All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state. The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

2. The authority and service provider shall provide to the state comptroller on March thirty-first and September thirtieth of each year a

report documenting each contract in excess of two hundred fifty thousand dollars per year entered into with a third party and related to management

and operation services associated with the authority's electric transmission and distribution system, including the name of the third party, the contract term and a description of services or goods to be procured, and post such report on each of their websites. All contracts entered into between the service provider and third parties are not subject to the requirements of subdivision one of this section.

§ 12. Paragraph (b) of subdivision 4 of section 94-a of the executive law, as amended by chapter 8 of the laws of 2012, is amended to read as follows:

(b) The utility intervention unit shall have the power and duty to:

(i) on behalf of the secretary, initiate, intervene in, or participate in any proceedings before the public service commission **or the department of public service**, to the extent authorized by sections **three-b,** twenty-four-a, seventy-one, eighty-four or ninety-six of the public service law or any other applicable provision of law, where he or she deems such initiation, intervention or participation to be necessary or appropriate;

(ii) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy services; [~~and~~]

(iii) accept and investigate complaints of any kind from Long Island power authority consumers, attempt to mediate such complaints where appropriate directly with such authority and refer complaints to the appropriate state or local agency authorized by law to take action with respect to such complaints[~~.~~]**; and**

(iv) hold regular forums in each of the service territories of the combination gas and electric corporations, as defined under section two of the public service law, and the Long Island power authority to educate consumers about utility-related matters and the regulatory process, opportunities to lower energy costs, including through energy efficiency and distributed generation, and other matters affecting consumers.

§ 13. Notwithstanding section 112 of the state finance law and notwithstanding any other provision of law to the contrary, including but not limited to any provision of law related to rebidding, letting or amending contracts of any amount, the Long Island Lighting Company dba LIPA is authorized to amend the operations services agreement, dated December 28, 2011, entered into with PSEG Long Island LLC, including Amendment Nos. 1 and 2 thereto, approved on June 27, 2012, solely by the following: (1) upon review and written recommendations made by the department of public service to the board of trustees of the Long Island power authority ("authority"), setting forth the reasons for and findings underlying such recommendations; and (2) adoption of a resolution by a majority of the authority's board of trustees.

§ 14. This act shall supersede the fifth project condition established in Resolution No. 97-LI-1 of the public authorities control board, dated July 16, 1997, related to the implementation of certain rate increases.

§ 15. Subdivision l of section 7208 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

l. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" **(i)** exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the

public service commission of this state, the interstate commerce commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer**, or (ii) exclusively as an officer or**

employee of the Long Island power authority or its service provider, as defined under section three-b of the public service law, by rendering to such authority or provider such services in connection with its lines and property which are located in such authority's service area and so long as such person is thus actually and exclusively employed and no longer;

§ 16. Repowering. If after the Long Island power authority, or its successor, determines, in accordance with the terms and conditions contained in the amended and restated power supply agreement ("A&R PSA"), dated October 10, 2012, between the authority and the owner of the legacy LILCO power generating facilities, that repowering any such generating facility is in the best interests of its ratepayers and will enhance the authority's ability to provide a more efficient, reliable and economical supply of electric energy in its service territory, consistent with the goal of improving environmental quality, the authority will exercise its rights under the A&R PSA related to repowering such facility, and shall enter into an agreement related to payments in lieu-of-taxes for a term commensurate with any power purchase agreement entered into related to such repowered facility, consistent with other such agreements related to generating facilities under contract to the authority in the service territory.

§ 17. This act shall take effect January 1, 2014; provided, however, that section twelve of this act shall take effect April 1, 2014, sections five, ten, eleven, thirteen, fourteen, fifteen and sixteen of this act shall take effect immediately; provided further that section thirteen of this act shall expire and be deemed repealed January 1, 2015; and provided further that the amendments to subdivision 6 of section 18-a of the public service law made by section two of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART B

Section 1. Legislative findings. The legislature hereby finds and determines:

1. On May 28, 1998, Long Island Power Authority (the authority) acquired all the capital stock and associated assets, including transmission and distribution (T&D) system assets of Long Island Lighting Company (LILCO) which does business as the retail electric utility on Long Island, New York under the name of LIPA. In connection with that acquisition, the authority took over ultimate responsibility for providing electric utility service to residential, commercial, industrial, nonprofit and governmental customers in the counties of Suffolk and Nassau and a portion of the county of Queens (hereinafter referred to as the "service area"). Such acquisition effectively converted LILCO from an investor-owned utility that was comprehensively regulated by the New York Public Service Commission (PSC) and the United States Federal Energy Regulatory Commission (FERC), to a municipal utility that is not comprehensively regulated either by the PSC or FERC.

2. Since May 28, 1998, neither the authority nor LIPA has directly operated or maintained the T&D system assets, provided electric service or billed and collected T&D rates from LIPA's customers; instead, the authority and LIPA have contracted out virtually all of these activities

to other companies. Most of these operations and service responsibilities have been contracted out to affiliates of a company now known as National Grid plc (National Grid), a multi-national electric and gas utility company organized under the laws of England and Wales pursuant to a management services agreement. Thus, while the LIPA name appears on customer bills as well as on service trucks and other equipment used in the service area,

affiliates of National Grid have been principally in charge of management and operation of the T&D system assets and providing electricity to consumers in the service area. The authority and LIPA have now contracted with affiliates of Public Service Enterprise Group and Lockheed Martin Services Inc. (PSEG-Lockheed) to provide operation and maintenance services for the T&D system assets for ten years starting January 1, 2014, when the National Grid contract expires.

3. High costs of electric utility service poses a serious threat to the economic well-being, health and safety of the residents of and the commerce and industry in the service area. High costs of electric utility service deter commerce and industry from locating in the service area and have caused existing commerce and industry to consider seriously moving out of the service area.

4. High debt and associated debt service contribute to the authority's high electric rates. The authority has approximately seven billion dollars in outstanding debt, a substantial portion of which was issued to refinance debt associated with construction of the now abandoned Shoreham nuclear power plant. The annual debt service associated with such bonds puts pressure on the authority's customer rates.

5. As of December 31, 2012, the three major rating agencies generally rated the authority's debt in the single-A range, though Moody's Investors Services assigns approximately seven hundred million dollars of the authority's debt slightly lower ratings of Baa1 and Baa2.

6. If securitized restructuring bonds were issued by a bankruptcy-remote entity with a AAA or equivalent rating in current market conditions to finance a portion of the costs of purchasing, redeeming or defeasing outstanding debt of the authority, and other associated costs, the debt service on the authority's debt could be reduced and the costs of electric utility service could be lowered.

7. Securitized restructuring bonds are likely to be most attractive to the investing public and result in the lowest possible yields if they are issued by a newly organized, special purpose public benefit corporation or other corporate municipal instrumentality of the state.

8. The purpose of this act is to provide a legislative foundation for the issuance of securitized restructuring bonds to refinance outstanding debt of the authority, a significant portion of which relates to LILCO's costs of constructing and financing the now abandoned Shoreham nuclear power plant, including the creation of restructuring property by the authority to provide for the redemption or defeasance of a portion of the outstanding debt of the authority. It is the intent of the legislature to authorize, for the purpose of reducing electric utility costs to consumers in the service area, the following: (a) the organization of a restructuring bond issuer as a special purpose corporate municipal instrumentality of the state, created for the limited purpose of issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt of the authority and associated costs, which securitized restructuring bonds create no new financial obligations or liabilities for the authority or for the state; and (b) implementation of contracts with owners of the securitized restructuring bonds through a

statutory pledge and agreement that the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds until those bonds are no longer outstanding and all

amounts due and owing under the related transaction documents have been paid in full.

9. Accordingly, the issuance of securitized restructuring bonds is expected to result in lower aggregate distribution and transmission charges and transition charges, compared to other available alternatives.

§ 2. Definitions. As used or referred to in this act, unless a differing meaning clearly appears from the context:

1. "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement or arrangement entered into in connection with the issuance of restructuring bonds that is designed to promote the credit quality and marketability of such restructuring bonds or to mitigate the risk of an increase in interest rates.

2. "Approved restructuring costs" means, to the extent approved as such under a restructuring cost financing order,

(a) costs of purchasing, redeeming or defeasing a portion of outstanding debt of the authority, including bonds and notes issued by the authority, debt issued by the New York state energy research and development authority for the benefit of the LILCO;

(b) costs of terminating interest rate swap contracts and other financial contracts entered into by or for the benefit of the authority and related to debt obligations of the authority;

(c) rebate, yield reduction payments and any other amounts payable to the United States Treasury or to the Internal Revenue Service to preserve or protect the federal tax-exempt status of outstanding debt obligations of the authority; and (d) upfront financing costs associated with restructuring bonds.

3. "Assignee" means any individual, corporation, limited liability company, partnership or limited partnership, trust or other legally-recognized entity to which an interest in restructuring property is assigned, sold or transferred, other than as security, including any assignee of that party.

4. "Authority" means Long Island Power Authority, a corporate municipal instrumentality and political subdivision of the state.

5. "Consumer" means any individual, governmental body, trust, business entity, nonprofit organization or other legally-recognized entity that takes electric delivery service within the service area by means of electric transmission or distribution facilities, whether those electric transmission or distribution facilities are owned by LIPA or any other entity.

6. "Financing cost" means the costs to issue, service, or repay restructuring bonds, whether incurred upon issuance of such restructuring bonds or over the life of the restructuring bonds, and approved for recovery in a restructuring cost financing order. Without limitation, "financing cost" may include, as applicable, any of the following:

(a) principal, interest and redemption premiums payable on restructuring bonds;

(b) any payment required under an ancillary agreement and any amount required to fund or replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds;

(c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and

(d) any cost related to issuing restructuring bonds, administering the restructuring bond issuer and servicing restructuring property and

restructuring bonds, or related to the efforts to prepare or obtain approval of a restructuring cost financing order, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, trustee fees and expenses, legal fees and expenses, accounting fees and expenses, administrative fees and expenses, placement fees, underwriting fees, fees and expenses of the authority's advisors and outside counsel, if any, rating agency fees and any other related cost that is approved for recovery in the restructuring cost financing order.

7. "Financing entity" means the restructuring bond issuer, the authority or any servicer, trustee, collateral agent, and other person or entity acting for the benefit of owners of the restructuring bonds, the restructuring bond issuer or the authority that may own restructuring property or have rights to receive proceeds of restructuring bonds or to receive proceeds from the sale of restructuring property.

8. "LIPA" means Long Island Lighting Company, currently doing business under the name of LIPA.

9. "Ongoing financing costs" means financing costs that are not upfront financing costs. Ongoing financing costs include: (a) principal, interest and redemption premiums payable on restructuring bonds; (b) any payment required under an ancillary agreement and any amount required to replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to restructuring bonds; (c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and (d) any cost related to administering the restructuring bond issuer and servicing restructuring property or restructuring bonds, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, administrative fees and expenses, trustee fees and expenses, and legal fees and expenses, accounting fees and expenses, and rating agency fees, approved for recovery in the restructuring cost financing order. Ongoing financing costs shall include any excess of actual upfront financing costs over the estimate of upfront financing costs included in the principal amount of the restructuring bonds.

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under section four of this act.

11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years.

12. "Restructuring cost financing order" means an order by the authority, adopted in accordance with this act, which approves the imposition and collection of transition charges, and the financing of approved restructuring costs and upfront financing costs through the sale of restructuring property and the issuance of restructuring bonds, and which includes a procedure to require periodic adjustments to transition charges to ensure the collection of transition charges sufficient to

provide for the timely payment of scheduled debt service on the restructuring bonds and all other ongoing financing costs contemplated by the restructuring cost financing order.

13. "Restructuring property" means the property rights and interests created pursuant to this act, including, without limitation, the right, title, and interest: (a) in and to the transition charges established

pursuant to a restructuring cost financing order, as adjusted from time to time in accordance with the restructuring cost financing order; (b) in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the transition charges or constituting transition charges that are the subject of a restructuring cost financing order, regardless of whether such revenues, collections, claims, payments, money, or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections, claims, payments, money or proceeds; and (c) in and to all rights to obtain adjustments to the transition charges pursuant to the terms of the restructuring cost financing order. Restructuring property shall constitute a vested, presently existing property right notwithstanding the fact that the value of the property right will depend on further acts that have not yet occurred, including but not limited to, consumers remaining or becoming connected to the T&D system assets and taking electric delivery service, the imposition and billing of transition charges, or, in those instances where consumers are customers of LIPA or any successor owner of the T&D system assets, such owner performing certain services.

14. "Service area" means the geographical area within which LIPA provided electric distribution services as of the implementation date of this act.

15. "Servicer" means an entity authorized and required, by contract or otherwise, to impose, bill and collect transition charges, to prepare periodic reports regarding billings and collections of transition charges, to remit collections to the appropriate financing entity, and to provide other services contemplated by the restructuring cost financing order, which may include calculation of periodic adjustments to the transition charges or providing other services related to the restructuring property. Without limitation, LIPA or any successor owner of the T&D system assets, their agents or subcontractors, or any entity authorized to bill and collect T&D rates may be a servicer.

16. "Servicing fee" means, except to the extent otherwise specified in a restructuring cost financing order, the periodic amount paid pursuant to a servicing agreement, indenture or other such document to a servicer of restructuring property which amount shall approximate the estimated incremental cost of imposing, billing and collecting transition charges, preparing servicing reports and performing other customary servicing services required in connection with securitized bonds. A restructuring cost financing order may authorize a smaller fee payable to a successor servicer that is affiliated with a successor owner of the T&D system assets if the incremental cost of providing servicing services is less than LIPA's incremental costs. A restructuring cost financing order may authorize a larger fee payable to a successor servicer that is not affiliated with the owner of the T&D system assets or is not performing similar services with respect to the base rates of the owner of the T&D system assets if such larger fee is reasonably necessary to employ a reliable successor servicer.

17. "Successor regulator" means a regulatory department, commission or other instrumentality or subdivision of the state with jurisdiction to

regulate the T&D rates of LIPA or its successor as owner of the T&D system assets.

18. "Third-party biller" means any person or entity authorized, required or entitled to bill or collect transition charges or T&D rates other than the authority, LIPA or a successor owner of the T&D system assets, or a servicer.

19. "T&D rates" means rates and charges for electric transmission and distribution services in the service area. "T&D rates" shall not include charges for the generation or resale of electricity or any charges imposed to fund public purpose programs.

20. "T&D system assets" means the physically integrated system of electric transmission and distribution facilities (and other general property and equipment used in connection therewith) owned by LIPA as of the effective date of this act or thereafter acquired for use by LIPA or its successors in providing retail electric utility service to consumers in the service area.

21. "Transition charges" means those rates and charges relating to the T&D system assets that are separate and apart from base rates of LIPA or any successor owner of the T&D system assets and that are authorized in a restructuring cost financing order to recover from consumers the principal, interest and premium payable on restructuring bonds and the other ongoing financing costs associated with the restructuring bonds. As provided in paragraph (c) of subdivision 5 of section five of this act, transition charges shall be imposed on all consumers in the service area and collected by LIPA or any successor owner of the T&D system assets, their agents, subcontractors, assignees, collection agents or any other entity designated under the restructuring cost financing order.

22. "Upfront financing costs" means the fees and expenses to issue restructuring bonds, including, without limitation, expenses associated with the efforts to prepare or obtain approval of a restructuring cost financing order, as well as the fees and expenses associated with the structuring, marketing, and issuance of restructuring bonds, including, without limitation, counsel fees, structural advisory fees, underwriting fees and original issue discount, rating agency and trustee fees (including fees of trustee's counsel), accounting and auditing fees, printing and marketing expenses, stock exchange listing fees and compliance fees, filing fees, any applicable taxes, payments in lieu of taxes, the amount required to fund a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds, and fees and expenses of the authority's advisors and outside counsel, if any. Upfront financing costs include reimbursement to any person of amounts advanced for payment of such costs. Upfront financing costs do not include scheduled debt service or other ongoing financing costs, to the extent such ongoing financing costs are payable from transition charge revenues. If any upfront financing costs cannot be reasonably determined before the principal amount of restructuring bonds is fixed, such financing costs shall be estimated and the aggregate of such estimates shall be included as an upfront financing cost for purposes of determining the principal amount of restructuring bonds to be issued. If the actual upfront financing costs are greater than the estimated upfront financing costs, the difference shall be deemed to be an ongoing financing cost; if the actual upfront financing costs are less than the estimated upfront financing costs, the proceeds corresponding to such difference shall be used to pay ongoing financing costs.

§ 3. Procedure; judicial review. 1. Standard. The authority may prepare a restructuring cost financing order for the purpose of issuing restructuring bonds to refinance outstanding debt of the authority based on a finding that such bond issuance is expected to result in savings to consumers of electric transmission and distribution services in the service area on a net present value basis.

2. Public hearings. Notwithstanding any other provision of law to the

contrary, at any time after the effective date of this act, after making such finding, the authority shall schedule and hold one or more expedited public statement hearings on the proposed restructuring cost financing order. After the conclusion of such hearings and its review of any comments received, the authority shall finalize the restructuring cost financing order for submission to the board of trustees of the authority and to the public authorities control board ("PACB"). The PACB shall have the power and it shall be its duty to, upon receiving an application for approval of a restructuring cost financing order, within thirty days after receipt of such order, either approve, absent any conditions of approval, or disapprove such order based solely on the assumptions and conditions set forth in the restructuring cost financing order and whether such order complies with the standards set forth in this act. If the public authorities control board fails to approve or disapprove such restructuring cost financing order within such thirty day period, the PACB shall be deemed to have approved the restructuring cost financing order. If the board of trustees of the authority approves such restructuring cost financing order and the PACB approves or is deemed to have approved such restructuring cost financing order, the restructuring cost financing order shall become a final rate order by the authority.

3. Appeals. Because delay in the final determination of the petition will delay the issuance of restructuring bonds, thereby diminishing savings to consumers that might be achieved if the restructuring bonds were issued promptly after the issuance of the restructuring cost financing order, notwithstanding any other law to the contrary, any action, suit or proceeding to which the authority or the restructuring bond issuer may be a party, in which any question arises as to the validity of this act or any restructuring cost financing order, shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Such preference shall also be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this act or any restructuring cost financing order in which such counsel may be allowed to intervene. Notwithstanding any other provision of law to the contrary, the validity of this act may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days of the effective date of this act, and the validity of any restructuring cost financing order may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days after such restructuring cost financing order becomes a final rate order by the authority; provided, however, that any such action, suit or proceeding and all supporting papers shall be filed directly to the Supreme Court, Appellate Division, Second Judicial Department.

4. Expiration of appeals. The authority shall provide written notification to the restructuring bond issuer upon the authority's determination that any and all actions, suits and proceedings challenging this

act and the final restructuring cost financing order have been denied or dismissed or the timing associated with the filing of such actions, suits and proceedings has lapsed or expired, and any related appeals have been exhausted or the timing related to such appeals has lapsed or expired.

5. Agreement to sell restructuring bonds. Within the time specified in

the restructuring cost financing order, after receiving notice from the authority that the time for petitions and appeals has lapsed or expired, the restructuring bond issuer shall enter into an agreement with one or more underwriters or purchasers satisfactory to the authority to sell the restructuring bonds in compliance with the restructuring cost financing order. No later than the third business day after the pricing of the restructuring bonds in accordance with such agreement, the initial servicer shall determine the initial transition charges and the expected savings to consumers in accordance with the restructuring cost financing order and shall file an issuance advice letter with the authority and the restructuring bond issuer setting forth the principal amount of restructuring bonds to be issued, the pricing, the net proceeds, the initial transition charges, the expected savings to consumers and any other information required by the restructuring cost financing order. No later than the end of the third business day after the filing of such issuance advice letter, the authority shall confirm in a notice to the restructuring bond issuer that such pricing complies with the restructuring cost financing order.

6. Issuance of restructuring bonds. Within ninety days after receiving notice of confirmation from the authority, the restructuring bond issuer shall issue the restructuring bonds, in one or more series or tranches and at one or more times, pursuant to the agreement to sell the restructuring bonds. The restructuring bond issuer shall purchase the restructuring property from the authority for a purchase price equal to the net proceeds from the sale of the restructuring bonds less any amounts of such proceeds required to fund or pay upfront financing costs.

7. Irrevocability. Upon the issuance of the restructuring bonds, the transition charges, including any adjustments thereof as provided in the restructuring cost financing order, shall be deemed established by the authority as irrevocable, final and effective without further action by the authority, or any other entity. The state, including the authority or any successor regulator, thereafter may not in any way take or permit any action to reduce, impair, postpone or terminate the transition charges approved in the restructuring cost financing order, as the same may be adjusted from time to time pursuant to subdivision 3 of section five of this act, or impair the restructuring property or the collection or recovery of transition charge revenues, including, but not limited to, either directly or indirectly by taking transition charges into account when setting other rates for any owner of the T&D system assets; nor shall the amount of revenues arising with respect to restructuring property be subject in any way to reduction, impairment, postponement, or termination.

8. Application of proceeds. The restructuring bond issuer shall cause the proceeds from its issuance of the restructuring bonds to be placed in one or more separate accounts and used only to pay or fund upfront financing costs and to purchase the restructuring property from the authority. The authority shall cause the proceeds from its sale of restructuring property to be placed in one or more separate accounts and used only to pay approved restructuring costs, and if funds remain in those accounts after the payment of all approved restructuring costs, to

make a refund or credit to consumers on the same basis that transition charges are then being imposed, to the extent such a refund or credit is practical.

§ 4. Creation of restructuring bond issuer. 1. Creation of restructuring bond issuer. For the purpose of effectuating the purposes

declared in section one of this act, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. The restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered.

2. Activities limited to issuing restructuring bonds and related activities.

(a) The restructuring bond issuer is hereby authorized to:

(i) issue the restructuring bonds contemplated by a restructuring cost financing order, and use the proceeds thereof to purchase or acquire, and to own, hold and use restructuring property or to pay or fund upfront financing costs provided, however, that the restructuring bond issuer shall only issue and sell restructuring bonds once;

(ii) contract for servicing of restructuring property and restructuring bonds and for administrative services; and

(iii) pledge the restructuring property to secure the restructuring bonds and the payment of ongoing financing costs, all pursuant to section seven of this act.

(b) So long as any restructuring bonds remain outstanding, the restructuring bond issuer shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity. Additionally, the restructuring bond issuer shall not have the power or authority to incur, guarantee or otherwise become obligated to pay any debt or other obligations other than the restructuring bonds and financing costs unless otherwise permitted by the restructuring cost financing order. The restructuring bond issuer shall keep its assets and liabilities separate and distinct from those of any other entity.

(c) The restructuring bond issuer shall have no additional authority to engage in other business activities; provided, however, that in connection with the powers specified in paragraph (a) of subdivision 2 of this section, as a financing entity, the restructuring bond issuer shall have the power to:

(i) sue and be sued;

(ii) have a seal and alter the same at pleasure;

(iii) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property;

(iv) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act and to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement, including, without limitation, make and execute contracts with the authority, LIPA or any successor owner of the T&D system assets, any servicers, any financing entity or any other public or private entities to service restructuring property owned by restructuring bond issuer, to service restructuring bonds issued by restructuring bond issuer, and to provide services in

administering the restructuring bond issuer, and to pay compensation for such services;

(v) appoint officers, agents and employees, prescribe their duties and qualifications, fix their compensation and engage the services of

private consultants, accountants, counsel and others on a contract basis for rendering professional and technical assistance and advice;

(vi) pay its operating expenses, scheduled debt service on the restructuring bonds and other ongoing financing costs;

(vii) issue restructuring bonds and provide for the rights of the holders thereof;

(viii) procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers as it deems desirable;

(ix) invest any funds or other moneys under its custody and control in investment securities or under any ancillary agreement;

(x) establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by agreements made in connection with the restructuring bonds, or any agreement between itself and third parties;

(xi) as security for the payment of the principal of and interest on any restructuring bonds issued by it pursuant to this act, and any agreement made in connection therewith, pledge all or any part of its revenues or assets, including, without limitation, restructuring property, unspent proceeds of its restructuring bonds, transition charge revenues, and earnings from the investment and reinvestment of unspent proceeds of its restructuring bonds and transition charge revenues; and

(xii) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

3. No authority to file for bankruptcy protection. The restructuring bond issuer shall not be authorized to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. No governmental officer or organization is empowered to authorize, whether by executive order or otherwise, restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. Until at least one year and one day after all restructuring bonds issued by restructuring bond issuer have ceased to be outstanding and all unpaid financing costs have been paid, the state hereby pledges, contracts and agrees with owners of restructuring bonds issued by restructuring bond issuer that the state will not limit or alter the denial of authority to the restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code.

4. Governance. The restructuring bond issuer shall be governed by a board consisting of three trustees appointed by the governor. The trustees shall not be trustees, directors, officers, or employees of the authority, LIPA or any successor owner of the T&D system assets.

(a) One of the trustees first appointed shall serve for a term ending four years from January first next succeeding his appointment; one of such trustees shall serve for a term ending five years from such date; and one of such trustees shall serve for a term ending six years from such date. Their successors shall serve for terms of six years each. Trustees shall continue in office until their successors have been appointed and qualified and the provisions of section 39 of the public officers law shall apply. In the event of a vacancy occurring in the

office of a trustee by death, removal, resignation or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

(b) Trustees shall serve without salary or other compensation, but each trustee shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(c) A majority of the trustees shall constitute a quorum for the transaction of any business or the exercise of any power or function of restructuring bond issuer. Any one or more trustees may participate in a meeting of the board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The board may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as the board may deem proper.

(d) Such trustees may engage in private employment, or in a profession or business. Restructuring bond issuer, its trustees, officers and employees shall be subject to the provisions of sections 73 and 74 of the public officers law.

(e) Notwithstanding any inconsistent provision of law to the contrary, general, special or local, no officer of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as trustee of restructuring bond issuer.

(f) The governor may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days notice. If any trustee shall be so removed, the governor shall file in the office of the department of state a complete statement of the charges made against such trustee and his or her findings thereon, together with a complete record of the proceedings.

(g) Each trustee shall have a fiduciary duty to act in the best interests of the restructuring bond issuer, including its creditors, the owners of the restructuring bonds, and such other duties as may be specified in the organizational documents or other agreements of the restructuring bond issuer.

(h) The restructuring bond issuer and its corporate existence shall continue until one year and one day after all restructuring bonds and ongoing financing costs and other indebtedness of restructuring bond issuer have been actually paid and all its other liabilities and obligations have been paid, met or otherwise discharged. Upon termination of the existence of restructuring bond issuer, all of its rights and property shall pass to and be vested in the state.

§ 5. Restructuring cost financing orders. 1. Content of restructuring cost financing orders. The restructuring cost financing order shall include the following: (i) a description of the approved restructuring costs; (ii) the amount of approved restructuring costs that the authority proposes to pay through the sale of the restructuring property and the issuance of the restructuring bonds; (iii) designation of the authority as the entity in which initial ownership of restructuring property will vest; (iv) an estimate of the date on which restructuring bonds will be issued and the expected scheduled term to maturity of the restructuring bonds; (v) a description of the estimated debt service on the restructuring bonds and other ongoing financing costs that may be recovered through transition charges; as part of this description, the

restructuring cost financing order may include qualitative or quantitative limitations on financing costs approved to be recovered provided

that no such limitation on financing costs shall impair the ability of the restructuring bond issuer to pay and service the restructuring bonds in accordance with their terms; (vi) a proposed methodology for allocating transition charges on an equal percentage basis among customer service classifications and among volumetric (kWh) and demand (kW) charges within those customer service classifications, along with an associated bill impact analysis of the proposed methodology; (vii) a description of the proposed adjustment mechanism to reconcile actual collections with forecasted collection on at least an annual basis and a finding that the adjustment mechanism is just and reasonable; (viii) a description of the benefits to consumers in the service area that are expected to result from the sale of the restructuring property and the issuance of restructuring bonds as opposed to traditional alternative financing mechanisms; (ix) specifying the entity that will contract to act as servicer with respect to the restructuring property and the restructuring bonds on terms and conditions mutually acceptable to such servicer and the restructuring bond issuer; (x) specifying the entity or entities that will contract to provide administrative or other services to the restructuring bond issuer; (xi) specifying when the restructuring property will be created and vest and addressing such other matters as may be necessary or desirable for the marketing or servicing of the restructuring bonds or the servicing of the restructuring property; (xii) authorizing the imposition, billing and collection of transition charges to pay debt service on the restructuring bonds and other ongoing financing costs; (xiii) a description of the restructuring property that will be created and that may be used to pay and secure the payment of the restructuring bonds approved to be issued in the restructuring cost financing order; (xiv) a requirement that the amounts in the debt service reserve accounts or other accounts funded with the proceeds of restructuring bonds or transition charges be fully used, to the extent practical, to make the final payments of principal and interest on the restructuring bonds and other ongoing financing costs or to make refunds to consumers on the same basis as such consumers would have then been obligated to pay transition costs; and (xv) the finding required by subdivision 1 of section 3 of this act.

2. Periodic reports. A restructuring cost financing order shall require the restructuring bond issuer or the servicer to file at least annually with the authority and the appropriate financing entity a periodic report showing the billing and collection of transition charges, the application of transition charge revenues to debt service on the restructuring bonds and other ongoing financing costs, and the balances in any debt service reserve accounts or other accounts required by the restructuring cost financing order.

3. Adjustment mechanism.

(a) Each restructuring cost financing order shall include a mathematical formula for making periodic adjustments to the transition charges. The mathematical formula shall apply the following principles:

(i) The transition charges will be adjusted at least annually to ensure that the collections of transition charges are adequate to pay principal and interest on the associated restructuring bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve accounts to the required levels and to pay when due all other expected ongoing financing costs.

(ii) The adjustments of transition charges will take into account historical and reasonably foreseeable differences between amounts billed

and amounts collected due to applicable taxes, consumer defaults and delays, billing lags, write-offs and other factors.

(iii) The adjustments of transition charges will take into account historical and reasonably foreseeable variations in billings due to variations in electricity consumption associated with the seasons, storms and other weather conditions, outages, gain or loss of consumers, efficiencies, electric vehicles, economic conditions or other factors.

(iv) The adjustments of transition charges will take into account any over-collection or under-collection of transition charges so that, to the extent practical, the outstanding balance of restructuring bonds is equal to the scheduled balance on the expected amortization schedule, the amounts in the debt service reserve accounts are equal to the required reserve level, and all ongoing financing costs are paid when due.

(v) The adjustments of transition charges will be applied ratably to the transition charges for each customer service classification.

(b) Once restructuring bonds have been issued, the adjustment mechanism specified in the restructuring cost financing order shall be applied to correct for any over-collection or under-collection of transition charges and to provide for timely payment of scheduled principal of and interest on the restructuring bonds and the payment and recovery of other ongoing financing costs in accordance with the restructuring cost financing order. Application of the adjustment mechanism shall occur at least annually or more frequently as provided in the restructuring cost financing order. A notice of such periodic adjustment of transition charges shall be filed with the authority by or on behalf of the owner of restructuring property and a copy shall be provided to the owner of the T&D system assets at least sixty days before the adjustment is to take effect, provided that the restructuring bond issuer may request an earlier effective date.

(c) Each adjustment to the transition charge, in amounts as calculated by or on behalf of the owner of restructuring property, shall automatically become effective sixty days following the date on which the notice of periodic adjustment is filed with the authority unless the authority approves an earlier effective date requested by the restructuring bond issuer.

(d) Notwithstanding any other provision of law to the contrary, the authority shall allow interested parties thirty days from the date of filing of the notice for adjustment within which to make comments. Such comments shall be limited to the mathematical accuracy of the calculations of the amount of the adjustments. If the authority determines that the calculation of the transition charge adjustment in the notice was mathematically inaccurate, the transition charge adjustment shall be changed as soon as it is reasonably practical to do so, but estimated overcollections or undercollections resulting from the mathematical error shall be taken into account in the next succeeding periodic adjustment.

(e) No adjustment pursuant to this section shall in any way affect the irrevocability of the restructuring cost financing order as specified in subdivision 4 of section five of this act. No adjustment pursuant to this section shall require any approvals or action under any other law or shall be deemed to be the establishment of a new charge, fee or rate under any law.

4. Irrevocability of restructuring cost financing orders.

(a) A restructuring cost financing order shall be an irrevocable final

rate order when the time for any actions, suits, proceedings and appeals challenging such final restructuring cost financing order has lapsed or expired as provided in subdivision 3 of section three of this act.

(b) A restructuring cost financing order may be amended on or after the date of issuance of restructuring bonds approved thereunder only: (i) at the request of the authority; (ii) in accordance with any restrictions and limitations on amendment set forth in the restructuring cost financing order; (iii) subject to the limitations set forth in subdivision 7 of section three of this act; and (iv) upon approval by the PACB within thirty days of receipt of such amendment; provided, however, that if no approval or disapproval is made within such time, the amendment shall be deemed approved.

(c) This act, and any restructuring cost financing order made pursuant to this act, shall not be interpreted to alter or limit the rights vested in the authority to establish sufficient T&D rates to pay and perform all of its obligations and contracts with the authority's bondholders and others when due.

5. Effect of restructuring cost financing order.

(a) A restructuring cost financing order shall remain in effect and unabated until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all ongoing financing and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) A restructuring cost financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the authority, the restructuring bond issuer, LIPA or any successor owner of the T&D system assets, or any affiliate of the aforementioned, or the commencement of any judicial or nonjudicial proceeding therefor.

(c) For so long as restructuring bonds issued pursuant to a restructuring cost financing order are outstanding, and the related approved restructuring costs have not been paid in full, the transition charges authorized in the restructuring cost financing order shall be non-bypassable and shall apply to all consumers connected to the T&D system assets and taking electric delivery service located within the service area, whether or not the consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the T&D system assets and whether or not the T&D system assets continue to be owned by LIPA.

§ 6. Restructuring bonds. 1. No recourse. Restructuring bonds shall be without recourse to the credit or any assets of the authority, LIPA and the restructuring bond issuer, other than the restructuring property and other assets and revenues of restructuring bond issuer as specified in the pertinent restructuring cost financing order.

2. Exemption from taxation.

(a) It is hereby found and declared that the activities of the restructuring bond issuer are primarily for the benefit of the people of the state of New York, for the improvement of their welfare and prosperity, and is a public purpose, and the restructuring bond issuer shall be regarded as performing an essential governmental function in carrying out the provisions of this act.

(b) The restructuring bond issuer shall not be required to pay taxes or assessments upon any of the property acquired or controlled by it or upon its activities in the use thereof or upon income derived therefrom.

(c) Restructuring bonds, their transfer and the income therefrom shall, at all times, be free from taxation by the state or any munici-

pality, except for estate and gift taxes.

3. Restructuring bonds not debt of the state. Restructuring bonds issued pursuant to a restructuring cost financing order and the provisions of this act shall not constitute a debt, general obligation or a pledge of the faith and credit or taxing power of the state or of any county, municipality or any other political subdivision, agency or instrumentality of the state. Holders of restructuring bonds shall not be taxed by the legislature or the taxing authority of any county, municipality or any other political subdivision, agency or instrumentality of this state for the payment of the principal thereof or interest thereon. The issuance of restructuring bonds does not obligate the state or any county, municipality or any other political subdivision, agency or instrumentality of the state to levy any tax or make any appropriation for payment of the principal of or interest on the restructuring bonds. All restructuring bonds must contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of New York is pledged to the payment of the principal of, or interest on, this bond."

4. Restructuring bonds as legal investments. Any restructuring bonds issued by the restructuring bond issuer are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all trusts, estates and guardianships and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. The restructuring bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 7. Restructuring property. 1. (a) Restructuring property that is created pursuant to a restructuring cost financing order shall constitute an existing, present property right, notwithstanding the fact that the imposition and collection of transition charges will depend on further acts that have not yet occurred, including but not limited to: (i) LIPA or any successor owner of the T&D system assets delivering electric energy or related services, (ii) a servicer performing servicing functions relating to the collection of transition charges, or (iii) the level of future consumption of electric energy. Restructuring property shall exist whether or not transition charges have been imposed, billed, accrued or collected and notwithstanding the fact that the value or amount of the restructuring property is dependent on the future provision of service to customers by LIPA or any successor owner of the T&D system assets.

(b) All restructuring property created pursuant to a restructuring cost financing order shall continue to exist until the restructuring bonds issued pursuant to such restructuring cost financing order are paid in full and all ongoing financing costs relating to the restructuring bonds have been paid in full.

(c) The restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of

restructuring property may be pledged to secure the payment of restructuring bonds, amounts payable to financing parties, amounts payable to holders of restructuring bonds, amounts payable under any ancillary agreement and other ongoing financing costs. So long as the restructuring property remains pledged to secure the restructuring bonds, revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs. After the occurrence of an event of default with respect to the restructuring bonds, all or any portion of restructuring property may be transferred, sold, conveyed or assigned to any person or entity. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of restructuring property by the authority, the restructuring bond issuer, or other financing entity, to the extent previously approved in a restructuring cost financing order, does not require the prior consent and approval of any other person or entity under the public service law or any other law.

(d) If the owner of the T&D system assets, servicer, third-party biller, or any other person or entity authorized to collect transition charges, defaults on any required remittance of transition charge revenues, any court in the state, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the transition charge revenues for the benefit of the owners or pledgees of restructuring property. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to a servicer, authority, LIPA or any successor owner of the T&D system assets or any affiliate thereof or of any other person or entity.

(e) Restructuring property, transition charges, transition charge revenues, and the interests of an assignee, bondholder, financing party or any other person in restructuring property or in transition charge revenues, are not subject to setoff, counterclaim, surcharge or defense by a servicer, any consumer, the authority, LIPA or any successor owner of the T&D system assets or any other person or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of the authority, LIPA or any successor owner of the T&D system assets, any affiliate thereof or any other entity or otherwise. To the extent that any consumer makes a partial payment of a bill containing both transition charges and any other charges, such payment shall be allocated pro rata between the transition charges and the other charges unless the consumer specifies that a greater proportion of such payment is to be allocated to the transition charges, except that the other charges shall be reduced by the amount of any claims of setoff, counterclaim, surcharge or defense for purposes of such allocation.

(f) Any successor owner of the T&D system assets and any successor servicer shall be bound by the requirements of this act and shall perform and satisfy all obligations of a servicer in the same manner and to the same extent under a restructuring cost financing order as did LIPA and the initial servicer, including, without limitation, the obligation to impose, bill and collect the transition charges and to pay such collections to the person entitled to receive the transition charge revenues.

2. Security interests. Any pledge of restructuring property or proceeds thereof, including any moneys, revenues or property or of a revenue producing contract or contracts constituting part of the

restructuring property, made by the owner of restructuring property,

shall be perfected, valid and binding from the time when the pledge is made. The proceeds, moneys, revenues or proceeds so pledged and thereafter received by the owner of restructuring property shall immediately be subject to the lien of such pledge, and such lien shall be perfected, without any physical delivery thereof or further act. The lien of any such pledge shall be perfected, valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the owner of restructuring property irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a pledge or security agreement and any financing statement is sufficient if and only if the description refers to this Act and the restructuring cost financing order creating such restructuring property. No instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article 9 of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that the secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed. A pledge of restructuring property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that restructuring property or proceeds thereof unless the holder of any such lien has agreed in writing otherwise. Any pledgee of restructuring property shall have a perfected security interest in the amount of all restructuring property revenues or other proceeds that are deposited in any deposit account or other account of the servicer or other entity in which restructuring property revenues or other proceeds have been commingled with other funds. Any other security interest that may apply to restructuring revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a financing party. No application of the adjustment mechanism as described in this act shall affect the validity, perfection, or priority of a pledge of, security interest in or the sale or transfer of restructuring property.

3. Sales of restructuring property.

(a) A transfer of all or any portion of restructuring property, which the parties in the governing documentation have expressly stated to be a sale or other absolute transfer, in a transaction approved in a restructuring cost financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest (as in a true sale), and not as a pledge or other financing, of the restructuring property, other than for federal, state and local income and franchise tax purposes.

(b) Any transfer of an interest in restructuring property shall be perfected, vested, valid and binding from the time when the transfer is made. Such transfer shall be perfected, vested, valid and binding as against the transferor, all parties having claims of any kind in tort, contract or otherwise against the transferor, and all other transferees of the transferor, irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens

obtained by such claimants or transferees. The description of the restructuring property in a sale or transfer agreement and any financing statement is sufficient if and only if the description refers to this act and the restructuring cost financing order creating such restructuring property. No instrument by which a transfer is created pursuant to this section need be recorded in order to perfect such transfer. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article nine of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that such secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed.

(c) The characterization of the sale, assignment or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser, shall not adversely be affected or impaired by, among other things, the occurrence of any of the following factors: (i) commingling of revenues or other proceeds from transition charges with other amounts; (ii) the retention by the seller of: (A) a partial or residual interest, including an equity interest, in the restructuring property, whether direct or indirect, or whether subordinate or otherwise; or (B) the right to recover costs associated with taxes, payments in lieu of taxes, franchise fees or license fees imposed on the collection of transition charges; (iii) any recourse that the purchaser may have against the seller; (iv) any indemnification rights, obligations or repurchase rights made or provided by the seller; (v) the obligation of the seller to collect transition charges on behalf of an assignee, including but not limited to, any retention by the seller to bare legal title for the purpose of collecting transition charges; (vi) the treatment of the sale, assignment or transfer for tax, financial reporting or other purposes; (vii) any subsequent order of the authority amending a restructuring cost financing order pursuant to paragraph (b) of subdivision 4 of section five of this act; or (viii) any application of the adjustment mechanism as provided in subdivision 3 of section five of this act.

(d) An assignee or financing party shall not be considered to be a public utility or person providing electric service solely by virtue of the transactions described in this act.

§ 8. Rights and duties while restructuring bonds are outstanding. 1. Responsibilities of the authority. (a) For the purpose of investigating compliance with the provisions of this act and the applicable restructuring cost financing order, the authority shall have the right, jurisdiction, power and authority to examine the books and records of LIPA or any successor owner of the T&D system assets, the restructuring bond issuer, any other financing entity, any servicer, any third-party biller and any other person or entity that owns restructuring property or has the right to impose, bill or collect transition charges until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all financing costs relating to such restructuring bonds have been paid in full.

(b) Neither the authority nor any successor regulator may, in exercising its powers and carrying out its duties regarding regulation and ratemaking, consider restructuring bonds issued pursuant to the restructuring cost financing order to be the debt of any owner of the T&D

system assets, consider transition charges paid under the restructuring cost financing order to be revenue of any owner of the T&D system assets, or consider the approved restructuring costs or ongoing financing costs specified in the restructuring cost financing order to be costs of any owner of the T&D system assets or any affiliate, nor may the authority or any successor regulator determine that any action taken by any owner of the T&D system assets that is consistent with the restructuring cost financing order is unjust or unreasonable from a regulatory or ratemaking perspective; provided that, subject to the limitations set forth in subdivision 4 of section five of this act and the state pledge in section nine of this act, nothing in this subdivision shall (i) affect the authority to apply the adjustment mechanism as provided in subdivision 3 of section five of this act; (ii) prevent or preclude the authority from investigating the compliance of any owner of the T&D system assets and of any financing entity with the terms and conditions of a restructuring cost financing order and requiring compliance therewith; or (iii) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any owner of the T&D system assets for failure to comply with the terms and conditions of a restructuring cost financing order or the requirements of this act. When setting other rates for any owner of the T&D system assets, nothing in this act shall prevent the authority or any successor regulator from taking into account the collection by such owner of servicing fees in excess of incremental costs of providing servicing services, or the collection by such owner of administration fees in excess of incremental costs of providing administration services; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following: (i) treating restructuring bonds as debt for federal income tax purposes; or (ii) treating any transfer of the restructuring property to the restructuring bond issuer or to any other financing entity as a true sale for bankruptcy purposes.

2. Duties of financing entities and any owner of T&D system assets.

(a) Any failure of any financing entity to apply the proceeds of restructuring bonds, or proceeds from the sale of restructuring property, in a reasonable, prudent and appropriate manner or otherwise comply with any provision of this act shall not invalidate, impair or affect any restructuring cost financing order, restructuring property, transition charge, or restructuring bonds.

(b) Any owner of T&D system assets, any servicer, any third-party biller and any other entity that bills or collects T&D rates shall simultaneously impose, bill and collect any transition charges applicable to consumers in the service area, including all consumers connected to the T&D system assets and taking electric delivery service located within the service area, shall allocate partial payments by consumers as provided in this act, shall terminate service to non-paying consumers on the same basis as termination of service is permitted for non-payment of T&D rates, shall exercise all enforcement rights of the owner or pledgee of the restructuring property for the benefit of such owner or pledgee, and shall remit any transition charge revenue to the owner or pledgee of the restructuring property.

§ 9. State pledge. (a) The state pledges to and agrees with the holders of restructuring bonds, any assignee and all financing entities that the state will not in any way take or permit any action that limits, alters or impairs the value of restructuring property or, except as

required by the adjustment mechanism described in the restructuring cost financing order, reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) Any person who issues restructuring bonds is permitted to include the pledge specified in subdivision (a) of this section in the restructuring bonds, ancillary agreements and documentation related to the issuance and marketing of the restructuring bonds.

§ 10. Choice of law. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in any restructuring property, transition charge or restructuring cost financing order, shall be the laws of the state of New York.

§ 11. Conflicts. In the event of conflict between this act and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any pledge of, security interest in or transfer of restructuring property, this act shall govern to the extent of the conflict. In the event of conflict between this act and the public service law, the Long Island power authority act or any other law, this act shall govern to the extent of the conflict. Notwithstanding any provisions of law to the contrary, no approvals, notices or authorizations other than those specified in this act shall be required with respect to any restructuring cost financing order, and the transactions and contracts authorized in or contemplated by this act or any restructuring cost financing order, including but not limited to the incurrence and payment of any financing costs, the incurrence or payment of any approved restructuring costs, the issuance of restructuring bonds, the sale or other transfer of restructuring property, and any contracts and expenses incurred to facilitate the preparation of any restructuring cost financing order.

§ 12. Effect of invalidity on actions. Effective on the date that restructuring bonds are first issued under this act, if any provision of this act is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect any action allowed under this act that is taken by the authority, LIPA, the restructuring bond issuer, any owner of T&D system assets, an assignee, a collection agent, a financing party, a holder of restructuring bonds or a party to an ancillary agreement and any such action shall remain in full force and effect.

§ 13. Effectiveness of the act. The authority may not adopt its first restructuring cost financing order after the five year period after the effective date of this act.

§ 14. Severability. If any section, subdivision, paragraph or subparagraph of this act or the application thereof to any person, circumstance or transaction is held by a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, subdivision, paragraph or subparagraph of this act or its application or validity to any person, circumstance or transaction, including, without limitation, the irrevocability of a restructuring cost financing order

ing bonds, the imposition of transition charges, the transfer or assignment of restructuring property or the collection and recovery of revenues from transition charges. To these ends, the legislature hereby declares that the provisions of this act are intended to be severable and that the legislature would have enacted this act even if any section, subdivision, paragraph or subparagraph of this act held to be unconstitutional or invalid had not been included in this act.

§ 15. Standing. (a) The owner of restructuring property, or the trustee representing holders of restructuring bonds, shall be expressly permitted hereby to bring actions against any owner of the T&D system assets, any third-party biller, or any other entity authorized to bill or collect T&D rates, any consumers in the service area or any other person or entity for failure to impose, bill, pay or collect any transition charges constituting part of the restructuring property then held pledged as security for such restructuring bonds or for enforcement of any other provision of this act or the applicable restructuring cost financing order.

(b) Except as provided in section three of this act, any court and the authority shall have jurisdiction over any actions for failure to impose, bill, pay or collect any transition charges or for enforcement of other provision of this act or any restructuring cost financing order.

§ 16. Third-party billing. If and to the extent that third parties are allowed to bill and/or collect any transition charges, the authority, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers, which generally would include (i) operational standards and minimum credit requirements for any such third-party biller, or require a cash deposit, letter of credit or other credit mitigant in lieu thereof, to minimize the likelihood that defaults by a third-party biller would result in an increase in transition charges thereafter billed to consumers, (ii) a finding that, regardless of who is responsible for billing, consumers shall continue to be responsible for transition charges, (iii) if a third party meters and bills for the transition charges, that the owner of the T&D system assets and any servicer must have access to information on billing and usage by consumers to provide for proper reporting to the restructuring bond issuer and to perform its obligations as servicer, (iv) in the case of a default by a third-party biller, billing responsibilities must be promptly transferred to another party to minimize potential losses, and (v) the failure of consumers to pay transition charges shall allow service termination by the owner of the T&D system assets on behalf of the restructuring bond issuer of the consumers failing to pay transition charges in accordance with service termination rules and orders applicable to T&D rates. Any costs associated with such third-party billing and/or collection shall be included as part of the recoverable ongoing financing costs or other rates or charges, as appropriate. Further, the authority and any successor regulator shall not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the then current ratings on any tranche or series of the restructuring bonds by any nationally recognized statistical rating organization designated by the restructuring bond issuer.

§ 17. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-

sion, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not take

affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through B of this act shall be as specifically set forth in the last section of such Parts.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

DEAN G. SKELOS
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

Overview of Long Island Power Authority

Long Island Power Authority (LIPA) is a not-for-profit public utility and the owner of transmission and distribution networks in Long Island, New York. It is established by statute and the state governor has power to appoint board members. LIPA has entered into a management contracts with the Public Service Enterprise Group (PSEG), a publicly traded utility company in New Jersey, and PSEG's subsidiary now manages the billing and day-to-day operations of the distribution network.

Summary of LIPA Reform Act

Section 1(8) of Part B of the Long Island Power Authority Reform Act, 2013 (the LIPA Reform Act) provides the legislative purpose of the act, which is "to refinance outstanding debt of LIPA, a significant portion of which relates to the cost of constructing and financing the now abandoned Shoreham nuclear power plant". The Act authorizes the creation of a restructuring bond issuer for the limited purpose of "issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt". This section also makes it clear that it is the intention of the legislature to provide a statutory pledge (found in s. 9 of the LIPA Reform Act) that until the restructuring bonds are paid in full, "the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds".

The definitions in section 2 of the LIPA Reform Act provide some clarity to the mechanisms for the securitization regime. Restructuring bonds are issued by the "restructuring bond issuer" (which is established under section 4 of the LIPA Reform Act and known as the "Utility Debt Securitization Authority", or UDSA) and secured by the "restructuring property", which is essentially the property interest in a future revenue stream. In section 2(13), "restructuring property" is defined to include the property rights and interests in the "transition charges". As defined in s. 2(21), transition charges are established and may be amended from time to time in accordance with a restructuring cost financing order, and they are a component of the delivery line on the utility bills.

Section 3 provides the procedures for issuing restructuring bonds by the restructuring bond issuer, and includes appeal procedures and public hearing provisions. Section 4 provides the authority to establish the UDSA as a public corporation, the scope of its activities and its governance structure. It should be noted that section 4(2)(a)(i) provides that "the restructuring bond issuer shall only issue and sell restructuring bonds once" (please also see summary of 2015 amendments below). The UDSA also issues the restructuring cost financing orders in accordance with section 5.

Section 6 sets out the features of the restructuring bonds. Section 6(1) limits bond purchaser's remedies to the restructuring property, i.e. the property interest in a future revenue stream. The restructuring bonds are tax-exempt (section 6(2)), and are not debt of the state (section 6(3)).

Section 7 governs the restructuring property and creates a property interest and security interest in the future revenue stream arising from "transition charges". Section 7(1)(c) provides that "[t]he restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of restructuring property may be pledged to secure the payment of restructuring bonds", and "revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs."

Section 8(2) provides that any owner of the transmission and distribution network or any other entity that collects the delivery charges on behalf of the owner shall impose the transition charges on the consumers, and shall remit such revenues to the owner or pledgee of the restructuring property.

Section 9 provides the pledge from the state not to take actions to impair the value of the restructuring property. Sections 10 to 17 include procedural provisions such as conflicts, third-party billing and standing.

Summary of 2015 Amendments to LIPA Reform Act

The LIPA Reform Act was further amended in 2015 to permit the issuance of additional restructuring bonds by UDSA or a separate "Utility Debt Securitization Authority No. 2" up to an aggregate maximum amount (including the previously-issued Restructuring Bonds) of $4.5 billion. Any additional issuance of restructuring bonds, whether issued by UDSA or by a new issuer, will be separately secured by distinct collateral pursuant to a new financing order and transaction documents.

Background Information on Duke Energy and Duke Energy Florida

Duke Energy is a publicly-traded utility company with electricity generation and transmission networks in the Carolinas, Florida, Ohio, Kentucky and Indiana. Duke Energy Florida ("**DEF**") is a subsidiary of Duke Energy and distributes power over much of central and north Florida. The Florida Public Service Commission (the "**Commission**") regulates DEF and other electric utilities in Florida (including municipal or investor-owned electric utility, and rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system).

Summary of Legislative Provisions on Asset Securitization

In 2015, section 366.95 of the Florida Statutes is created to enable "financing for certain nuclear generating asset retirement or abandonment costs". This section includes asset securitization provisions to allow investor-owned electric utilities to set up a special-purpose vehicle ("**SPV**") to issue secured bonds to finance the utility's costs ("nuclear asset-recovery costs") associated with the "early retirement or abandonment of a nuclear generating asset unit". These provisions were likely introduced in response to the closing of Duke Energy's Crystal River nuclear plant in 2013. According to DEF, "[t]his process, called Asset Securitization, will save customers approximately $600 million as compared to traditional cost recovery methods."[1]

Subsection (1) sets out the definitions of some key terms used in the section. The definition of "Assignee" provides examples of different legal structures to set up the SPV, including corporation, limited liability company, trust, partnership or public authority. The definition of "utility" limits the scope of this section to "investor-owned electric utilities" by referring to the same definition in another section of the statute book. "Nuclear asset-recovery bonds" are issued by the utility or assignee, and secured by the "nuclear asset-recovery property", which is the property interest in the revenue stream arising from "nuclear asset-recovery charges".

Subsection (2) requires the utility to submit a petition to the Commission for a financing order before the nuclear asset-recovery bonds can be issued. The petition needs to demonstrate that securitization would result in cost savings or would avoid or mitigate rate impacts compared to the traditional method of cost recovery. Subsection (2) further requires the Commission to address specific areas in its financing order, including: (i) the amount of nuclear asset-recovery costs to be financed by the bonds and the period during which the charges can be imposed on customers; (ii) detailed fact findings on cost-effectiveness and rate impacts; (iii) a requirement that charges be nonbypassable and paid by all existing and future customers receiving transmission or distribution

[1] Duke Energy announcement, "Duke Energy Florida cuts rates for customers", February 8, 2016 <http://www.prnewswire.com/news-releases/duke-energy-florida-cuts-rates-for-customers-300216799.html>

services; and (iv) mechanisms for periodic adjustment in the nuclear asset-recovery charges.

Subsection (3) provides that the bonds are considered debt for the utility only for federal income tax purposes, and limits the Commission's power to impose certain requirements in the financing order.

Subsection (4) sets out specific requirements for utility bills, such as showing the nuclear asset-recovery charge as a separate line item on the utility bill.

Subsection (5) creates a property right in the nuclear asset-recovery charges, which exists even if the charges have not been billed and may be pledged to secure the nuclear asset-recovery bonds. The utility may create a wholly owned subsidiary (the SPV) for the limited purpose of "acquiring, owning, or administering nuclear asset-recovery property or issuing nuclear asset-recovery bonds under the financing order", which also protects the nuclear asset-recovery property from potential creditor claims. This subsection also provides priority rules for competing security interests in the nuclear asset-recovery property. Subsections (6) to (8) provides further guidance in connection with the transfer of nuclear asset-recovery property to an SPV.

Subsection (9) provides that the nuclear asset-recovery bonds are not debt of the state of Florida. An issue of such bonds does not obligate the state to levy any tax for its payment, although the state may provide bond guarantees or enhancements. Subsection (10) provides statutory authority for certain entities to invest in nuclear asset-recovery bonds. Subsection (11) provides a pledge from the state not to take actions to impair the value of the nuclear asset-recovery property. Subsections (12) to (15) include boilerplate provisions such as conflicts, severability and penalties for incompliance.

Duke Energy Florida's Financing Order and Bond Issuance

In November 2015, the Commission released Financing Order PSC-15-0537-FOF-EI to approve DEF's petition for the issuance of nuclear asset-recovery bonds in the amount of $1,283,012,000 plus financing costs. Under the financing order, DEF is authorized to impose a nuclear asset-recovery charge to repay the nuclear asset-recovery bonds and associated financing costs, which will be collected on a per-kWh basis from all applicable customer rate classes. The financing order authorizes DEF to impose the charge for a period not exceeding 276 months (23 years) from the issuance of the nuclear asset-recovery bond.

DEF created Duke Energy Florida Project Finance LLC for the issuance of of nuclear asset-recovery bonds in June 2016.

MOODY'S
INVESTORS SERVICE

RATING METHODOLOGY

Moody's Global Approach to Rating Securities Backed by Utility Cost Recovery Charges

Table of Contents:

1. SCOPE 1
2. EXECUTIVE SUMMARY 1
3. ANALYZING THE RISK FACTORS 3
4. MONITORING 6
MOODY'S RELATED RESEARCH 8

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1. Scope

This methodology describes our global approach to rating securities backed by utility cost recovery charges ("UCRC" bonds) that are established by special legislation and financing orders issued by utility regulatory bodies. The charges backing UCRC bonds rated by us have been established by state legislation and state utility regulatory bodies in the United States. For UCRC bonds backed by charges authorized by other jurisdictions, we will analyze the specifics of the securitization's legal framework and regulations – and their implications for the quality of the protections afforded to investors – within the general methodology described in this report.

Examples of cost recovery charges include those imposed to cover certain costs of utility companies that had been incurred in a regulated environment but could no longer be recovered because of a change to a more competitive regulatory regime (i.e., charges sometimes referred to as "stranded utility charges") and those imposed to pay for environmental cleanups, clean energy or for the replenishment of reserves established for repair of facilities damaged by natural calamities, such as hurricanes or tornados.

2. Executive Summary

A utility cost recovery charge bond is a bond typically issued by a special purpose entity of a utility, or by a special borrowing conduit, to recover specified costs as authorized by special legislation and a specific financing order issued by a public service utility regulatory body. The bonds are backed by a property right created by the legislation, which provides the right to impose and collect special charges on customers' monthly electric bills.

This credit rating methodology was republished on June 22, 2015 containing an updated monitoring section and minor other editorial updates in the body of the text and in certain footnotes. The content of this Credit Rating Methodology has not been changed.

The credit quality of the bonds depends on the legal strength of the property right, which in turn depends on the specifics of the related legislation and financing order, and on the size and economic strength and stability of the ratepayer base against which the costs will be imposed. Therefore, our credit analysis of cost recovery charge securitizations focuses on both legal and economic factors that can influence whether investors in UCRC bonds will be paid as promised.

On the legal side, we assess the extent to which the legislation that authorizes the cost recovery charges[1] provides clear procedures for insulating the transaction from claims by other parties and is likely to be able to withstand challenges to rescind or alter the legislation prior to the legal final maturity of the securities. Consequently, our analysis focuses on the extent to which the legislation clearly defines (1) a property that entitles the owner of such property – the utility, or, in some cases, a public trust or corporation – the right to charge the fee throughout the life of the security in an amount sufficient to make full and timely repayment of principal and interest on the security, (2) the process the owner of the property must follow to charge the fee, (3) the irrevocable right of the owner of the property to transfer the fee to a special purpose financing vehicle for securitization purposes, (4) the type of financing vehicle authorized to issue securities backed by the fees, and (5) the process to be followed such that the transfer would be viewed as a "true sale" of the rights to the cash flows rather than a pledge of collateral for a financing for transactions that involve the transfer of the property from the utility to the issuer. A true sale would insulate the securitization from a bankruptcy of the utility, protecting securitization investors from potential claims on the cash flows by the utility's creditors. In addition, we assess whether the legislation has a government pledge not to impair the utility's right to collect the charges and the consequences if the government nevertheless does attempt to impair the right.

We also examine the likelihood that other potential claimants, such as other creditors of the financing vehicle if it were to become bankrupt or investors in other securities that have been issued by the utility, might make a successful claim on the cash flows of the securitization. Furthermore, we consider the breadth of the market to whom the charge will be applied and the extent to which the charge might be "bypassable," that is, the extent to which current or future customers might be categorized as outside the scope of the applicability of the charge.

Our assessment of the overall legal strength of the property right involves qualitative and judgmental factors. Transactions that are strong with respect to each of such characteristics may achieve the highest rating while the impact of weakening any of the attributes would be evaluated on a case-by-case basis.

On the economic side, our analysis focuses on the likelihood that the charges established by the legislation and accompanying regulations will be sufficient to repay the securitization bonds and on whether the charges might become onerous enough to cause pressure to rescind or alter the charges through future legislative or legal actions. As part of that assessment, we evaluate (1) possible changes in the size and composition of the customer base against whom the fee is to be charged, incorporating an evaluation of the breadth and diversity of the customer base, (2) the likely per capita energy usage (in those cases in which the fee charged is based on the usage amount), and (3) the fee rate, including any mechanism built in by the legislation that enables the fee to be reset over time to offset shortfalls that might develop over the life of the securitization (i.e., the transaction's "true up" mechanism). Generally the true-up mechanism is in effect the most important credit protection for UCRC transactions, limiting the risk that the cost recovery charges will be insufficient to pay off the bonds, thereby limiting the need for traditional sources of credit enhancement such as subordination and reserve funds.[2]

In analyzing a transaction's true-up mechanism, we examine how high rates would need to be set under "stressful" future scenarios to fully pay off the bonds, to assess the risk that onerous future rates might cause pressure to overturn or change the legislation and/or regulations establishing the charges. The variables that we typically "stress" test for UCRC bonds are the base against which the charge is to be

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[1] Throughout this report we use the terms "cost recovery charges" and "cost recovery fees" interchangeably.

[2] The true-up mechanism also limits the need to analyze the underwriting of the customer base, since the mechanism adjusts for all shortfalls, including those caused by customer defaults.

applied (usually energy usage) and the servicing fee. To obtain a high rating, we would expect that even in a stressful environment, such as one in which energy usage declined dramatically, the charge per customer necessary to pay off the bonds would be reasonably low both in absolute terms and as a percentage of the customer's energy bill. The specific stresses that we place on the variables are issuer-specific and are determined on a case-by-case basis.

In addition, we analyze the implications of other structural features of the securitization that could affect the risk of investor loss. For example, we examine the risk implications of how the cash flows are allocated among the various classes of investors and the other participants in the transaction, and the extent to which any other sources of funds are likely to be sufficient to offset any remaining shortfalls to investors, whether the shortfalls are temporary ("liquidity") or permanent ("credit enhancement").

3. Analyzing the Risk Factors

Because of the unique characteristics of this highly regulated asset class, our credit analysis of UCRC securitizations focuses primarily on the legislation and the true-up mechanism. The degree of certainty that the fees generated through the legislation will be sufficient to pay off the securitizations in full is a complementary aspect of the analysis. .

Depending on the risks and mitigants in the relevant jurisdiction, transaction ratings will typically be positioned between the government rating and the country ceiling. Risks that could lead us to determine transaction ratings to be lower than the country ceiling include, for example, continued high levels of debt burden in a utility system. Such high levels of debt, if deemed unsustainable in the long term, may lead to political pressure to adjust the regulatory framework around the system deficit, with some potential negative impact on the related securitization transactions.

In the following sections, we describe the factors that typically lead to a high degree of certainty and thus high ratings on the bonds.

3.1 Protection against Future Impairment of the Right to Collect the Charges

Utility cost recovery charges are established by special legislation that authorizes the creation of a property right to collect future surcharges on customers' monthly electricity bills as the means to pay back the UCRC bonds. Consequently, we analyze the extent to which investors are protected against the enactment of future legislative changes that would weaken that right. For example, investor risk would be mitigated in a situation in which (1) the legislation contained a pledge by the jurisdiction not to impair the right to collect the special charges until the maturity of the bonds and (2) violation of that pledge would be a violation of law [3].

3.2 Irrevocability of the Financing Order

The legislation is typically accompanied by a financing order issued by the public service commission that authorizes the utilities to impose and collect the surcharges on the customer's monthly electric bill during the term of the bonds. Our analysis assesses whether the financing order is irrevocable, which would protect investors against future adverse changes that may reduce the charges backing the bonds.

3.3 Sufficiency of the Charges and the True-Up Mechanism

The charges are usually assessed as an amount linked to a customer's energy usage. Our analysis considers whether the financing order places any limits on charges – e.g., caps on the levels of charges or limits on the length of time that the charges can be imposed – that might cause the collections to be insufficient to provide for timely payment of the principal and interest on the UCRC bonds. In addition, we analyze whether the period over which the charges are allowed to be levied provides sufficient cushion to pay off the bonds by maturity in the event that collections come in more slowly than originally projected.

[3] Violation of the non-impairment pledge would be a violation of the Contract Clause and the Takings Clause under the Federal and State constitutions.

As part of that analysis, we evaluate the power of any true-up mechanism that is provided for in the legislation and detailed in the financing order to correct for shortfalls that may develop over the life of the securities. A true-up mechanism typically adjusts future fee rates on a scheduled periodic basis (e.g., semiannually or annually) to correct for any under- (or over-) collections in a preceding period and to ensure the full and timely payment of future scheduled debt service, based on updated usage forecasts. The greater the frequency with which the true-up adjustments are made, the less likely that investors will suffer a shortfall at the final maturity date.[4]

That is particularly important as the security approaches the final maturity date; frequent rate adjustments based on then-current projections mitigate the risk that actual collections will deviate substantially from those projections, limiting the possibility of shortfalls at the final maturity date. Consequently, our analysis assesses the conditions under which more frequent true-ups are allowed, especially near the final maturity.[5]

3.4 Non-Bypassability of the Charges

We evaluate whether the charges are "non-bypassable," that is, whether the charges must be collected from all existing and future customers of the utility or its successors or assignees within the utility's service territory, and whether the financing order provides that a severance fee be charged to customers who switch to other service providers within the territory during the life of the bonds. We evaluate any exceptions to the non-bypassabilty rule, and consider the materiality of those exemptions to the cash collections. Charges that cannot be bypassed (i.e., those that cannot be avoided by the customers in the utility's service area) ensure a continuing payer base for the charges, leading to less risk for investors. As described in the Structural Features section (Section 3.8), the power of the true-up mechanism to protect investors is dependent on the non-bypassability of the charges. As a result, non-bypassability (with limited, immaterial exemptions) has been a key factor behind the high ratings that are typically assigned to these transactions, without the need for considerable protection from traditional types of credit protection, such as reserve accounts or subordination.

3.5 Bankruptcy of the Utility

For structures in which the initial owner of the property is a utility, a bankruptcy of the utility could expose securitization investors to the risk that other creditors of the utility might make a claim on the cost recovery charges or that payments to securitization investors might be delayed as a result of an imposition of an automatic stay on payments from the utility company.[6,7] However, that risk would be limited if it were clear that a bankruptcy court would view the transfer of the rights to the charges as a "true sale" of those rights, rather than as a financing of the company. As a result, we analyze whether the legislation clearly establishes the utility's right to receive and transfer the rights to the charges and provides unambiguous procedures for transferring those rights to the financing vehicle as a true sale, and whether those procedures are followed in the financing order.

In cases where the utility is the servicer of the transaction, we analyze whether a bankruptcy of the utility could lead to a disruption in servicing, e.g., billing and collecting. However, given the essential service provided by the utility, we expect that government authorities would intervene to prevent any disruption in servicing that might result from a bankruptcy. As a result, where the servicer is a regulated utility, we view operational risk as low. Consequently, we typically would consider a transaction to be consistent with a Aaa rating even if the servicer were not investment grade, as long as the transaction were structured with some mitigants for operational risk, such as the inclusion of a backup servicer and/or provision for additional liquidity.[8]

[4] Generally, the charges collected rank senior to other charges of a utility system and represent only a small amount of the total revenues of such system .
[5] Transactions typically allow for more frequent true-ups during the "tail period" between the transaction's stated "expected" maturity (determined by the sponsor) and the "legal" final maturity. The legal final maturity is the important date from our rating perspective, the date by which all principal must be repaid.
[6] In some transactions, the property is created by law for the benefit of a public trust or corporation that also is created by the same law. In such cases, the true sale risk would be non-existent as there is no sale or transfer of the property.
[7] For a discussion of how Moody's analyzes legal risks in structured finance transactions, see Moody's Related Research section at the end of this report.
[8] The rating standard for a backup servicer likely would be lower than investment grade, but would depend on the specific facts and circumstances of the transaction and servicer.

In addition, we analyze whether the bankruptcy of the utility could cause a disruption in the remittance of payments by the utility to bondholders. Such a disruption could occur if the remittances of the charges were "commingled" with the other funds of the utility and the bankruptcy court ordered a halt to payments until proper ownership of the funds could be sorted out. Our analysis includes an assessment of the ways in which the utility separates the cost recovery charges received from its other funds and the frequency with which it transfers the funds to the trust.

3.6 Bankruptcy of the Financing Vehicle

Another potential risk to investors in UCRC securitizations is a bankruptcy of the financing vehicle. That could expose investors to the risk that other creditors of the vehicle might make a claim on the cost recovery charges or that payments to investors might be delayed by the imposition of an automatic stay. Consequently, we analyze (1) the likelihood that a third-party creditor would be able to successfully petition the owner of the assets (i.e., the financing vehicle) into an involuntary bankruptcy proceeding or (2) the likelihood that the owner of the assets would voluntarily seek the protection of the bankruptcy courts.

To analyze the likelihood of an involuntary bankruptcy, we assess the characteristics that would mitigate that risk, such as if the financing vehicle had (1) no assets other than the right to the cost recovery charges, (2) no indebtedness other that the securitization debt, (3) limited activities that could give rise to contractual or other liabilities, and (4) agreements with the sponsor and other contracting parties not to petition for the dissolution, liquidation or bankruptcy of the securitization vehicle. Similarly, factors that would mitigate the risk of a voluntary bankruptcy would include (1) charter documents of the owner of the assets that require directors who are independent of the utility and (2) a unanimous vote of directors as a condition to filing a voluntary bankruptcy.

3.7 Economic Factors

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We typically also look at stressful collection scenarios. For example, in one scenario, we assume (1) that energy usage falls short of the utility's projections[9] by a progressively increasing amount each year (typically 5% per year), (2) that forecasted collections in peak usage months do not materialize (for example, 100% of the collections in the peak month and 50% of the collections in the second highest-usage month), and (3) that the servicing fee is considerably higher than the current, "normal," servicing fee, representing the fee that would be required if the original servicer needed to be replaced in a stressful environment. In another scenario, we typically assume that energy usage is lower than projected by a set amount throughout the life of the securitization (typically 25%). For highly rated transactions, we would expect that the cost recovery charge would remain relatively low even in those highly stressful scenarios.

While the specific stresses that we place on the variables have been quite similar to date, this reflects the fact that all rated transactions to date have involved requests for the highest ratings and been supported by highly diverse, broad-based service areas. However, in general, stresses are issuer-specific and are determined on a case-by-case basis. One of the factors that we use to determine the appropriate stress level for a transaction is the variability of the base against which the charge is applied, for example, the population in the service area or the energy usage in the service area. Customer bases that are less broad-based and diversified tend to be more variable; as a result, we would apply more severe stresses in those situations.

[9] We typically assess the reasonableness of the utility's projections by analyzing (1) the historical energy usage in the utility's service region and the variances between past projections and actual outcomes, and (2) the likely growth in electricity usage in the service area of the utility, taking into account the projected economic growth in the region and the possible competitive impact of technological advances, such as those in the development of solar energy.

In particular, we evaluate the economic diversity of the utility's service region to assess the potential variability in its economic health, which tends to drive changes in population and energy usage. An area that relies on multiple industries for economic growth will likely have a more stable business climate than an area that is dependent on the fortunes of one industry. In the latter case, the area's prospects will falter if that particular industry runs into hard times.

We also consider the mix in the customer base among residential, commercial, and industrial users. A utility with a large residential base relative to commercial and industrial users will tend to have less volatility in energy consumption, since energy consumption by commercial and industrial operations is more closely tied to the business cycle. Furthermore, residential customers are less likely to quickly embrace new energy production technologies and are less likely to cut back energy consumption dramatically if the price of energy were to rise. The higher variability of a commercial and industrial base can be exacerbated further if the service area's customer usage is concentrated in a few large commercial or industrial operations, which could make the overall energy consumption vulnerable if those entities were to decline or leave the area.

3.8 Structural Features

The key structural feature of UCRC transactions is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage (through alternative sources of energy or conservation). To be consistent with a particular rating, a strong true-up mechanism combined with non-bypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds.

In addition, our analysis of the credit risk of a UCRC transaction incorporates our assessment of the implications of the transaction's cash flow allocation structure (sometimes referred to as the cash flow "waterfall"). In particular, we focus on the seniority of principal and interest payments to the bond's investors *vis-à-vis* payments to other participants. In addition, we analyze the extent to which the transaction has an alternative source of liquidity to pay principal and interest in the event that there is a temporary interruption in the flow of the cost recovery charges. For example, in many transactions there is a capital or reserve account with funds sufficient to pay interest for at least 1-2 months, if needed. Furthermore, we assess the extent to which the credit enhancement that is available in the transaction is likely to be sufficient to offset any shortfalls that might develop in the period between the final true-up adjustment and the maturity of the bonds.

4. Monitoring

In monitoring UCRC transactions, we apply the key components of this methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialise, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

Depending on the jurisdiction, we also follow the rating of the utility as a proxy to assess any changes to the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of the utility collecting the charges (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

In other instances, we may be more concerned with the behavior of the regulator of the utility system and less with individual utility companies. This could lead to a lower rating in the space between the local currency ceiling and the sovereign rating or the utility rating.

Thus changes on our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

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For data summarizing the historical robustness and predictive power of credit ratings assigned using this credit rating methodology, see link.

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CREDIT OPINION
18 February 2016

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TABLE OF CONTENTS

Capital Structure 1
Summary Rating Rationale 1
Credit Strengths 2
Credit Challenges 2
Key Characteristics 3
Assets Overview 3
Assets Description 4
Assets Analysis 7
Additional Assets Analysis 11
Securitization Structure Overview 12
Securitization Structure Description 12
Securitization Structure Analysis 14
Methodology and Monitoring 16

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016A

Presale Report - Long Island Power Authority-Sponsored Securitization of Utility Cost Recovery Charge Assets

Capital Structure

Exhibit 1
Provisional (P) Ratings*

Series	Expected Amount	Tax Status	Interest Rate	Legal Maturity**	Provisional Ratings
2016A	[$381,730,000]	Tax-Exempt	Fixed	[12/15/2028]	(P) Aaa (sf)

The ratings address the expected loss posed to investors by the legal final maturity date. In Moody's opinion, the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the securitization. Other non-credit risks have not been addressed, but may have a significant effect on yield to investors.
* Principal amounts and legal maturity dates are preliminary and subject to change
** Reflects the latest legal maturity date among the tranches in the series
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016, and Moody's Investors Service

Summary Rating Rationale

The Utility Debt Securitization Authority (the issuer) intends to issue Restructuring Bonds, Series 2016A. The bond issuance will enable the Long Island Power Authority (LIPA, Baa1 stable) to retire a portion of its outstanding debt. This will be the third utility cost recovery charge (UCRC) securitization that LIPA has sponsored since 2013. These bonds are backed by restructuring property which consists of, among other things, the right to impose usage-based restructuring charges on all current and future retail electric customers in LIPA's service area.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of LIPA's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 18 February 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

and diversity of the ratepayer base in LIPA's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the 2016A restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of Legislation and Financing Order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015 permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other UCRC securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to UCRC bondholders that it will not 1) take or permit any action that limits, alters or impairs the value of the restructuring property, or 2) except as required by the adjustment mechanism, reduce, alter or impair restructuring charges until the bonds have been repaid in full (the state pledge). In addition, the LIPA Reform Act and financing order contain the typical strong true-sale and security interest provisions.

LIPA's irrevocable financing order authorizes the creation of restructuring property, which grants the issuer the irrevocable right to impose, bill and collect irrevocable, non-bypassable restructuring charges based on electricity usage from all of LIPA's existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

The financing order authorizes LIPA to recover the costs of retiring certain of its outstanding debt and the issuer to recover the costs of issuing, supporting and servicing the bonds. The issuer will recover these costs by collecting restructuring charges until the bonds are repaid in full, without any specified time limit.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually, and if necessary, semiannually (and quarterly after the last scheduled maturity date of the bonds of any series), in each case to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time without limitation as to frequency, if the servicer deems necessary to ensure timely bond payments. New to the 2016A transaction, the servicer may elect to perform an additional voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). Also, the timing of the mid-year and annual true-ups has changed to help smooth charges over the course of the year.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in LIPA's service area is a credit strength. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (89%) and commercial customers (10%). Unlike most other UCRC securitizations, the service area includes very few industrial customers, which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Credit Challenges

Challenges to LIPA Reform Act and Financing Order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the securitizable restructuring property; however we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the LIPA Reform Act. Therefore, the only way to repeal or amend the LIPA Reform Act, or for LIPA to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

Potential for Insufficient Collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration and self-generation. PSEG-LI's estimates of market demand, energy prices and growth within LIPA's service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur annually, semiannually and on an interim basis as needed.

Relatively High Restructuring Charge: LIPA expects the securitization's initial restructuring charge to represent around [0.79%] of the total monthly bill that an average 1,000 kilowatt hour (kWh) residential customer in LIPA's service area will receive as of June 1, 2016. The initial restructuring charge for the 2016A transaction, combined with the current restructuring charge for the 2013 and 2015 transactions, is expected to represent approximately [6.91%] of a typical residential customer's bill, and is relatively high compared to other utility cost recovery transactions. This concern is mitigated by LIPA's securitization offset rider, which reduces LIPA's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Exhibit 2

Asset Characteristics

Assets:	Restructuring property consisting of the issuer's irrevocable right to impose, charge and collect irrevocable, non-bypassable usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up adjustment mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full
Service Area:	Approximately 1.1 million customers in Nassau and Suffolk counties[1] and the Rockaway Peninsula

1. Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	[$381,730,000]1
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Collection Accounts and Debt Service Reserve Account
Sponsor/Seller/Initial Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority, a special purpose corporate municipal instrumentality of the State of New York
Operations Agent:	PSEG-Long Island
Trustee:	Bank of New York Mellon (Aa1/Aa2 stable, a1) 2

1. Preliminary and subject to change based on market conditions
2. The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Offering Statement dated February 18, 2016

Assets Overview

The collateral for this pool is the restructuring property consisting of the irrevocable right to impose, charge and collect non-bypassable, usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow LIPA to finance the retirement of a portion of its outstanding debt through the issuer's issuance of restructuring bonds, resulting in savings to LIPA's customers on a net present value basis. The securitization law gives LIPA the right to impose restructuring charges, which are the key asset of this securitization.

Prior to the legislature's amendment of the securitization law on March 26, 2015, the law permitted only one issuance of restructuring bonds by the issuer, and that issuance took place in December 2013 pursuant to Financing Order No. 1. The amended securitization law permits LIPA's Board of Trustees to adopt additional financing orders to, among other things, authorize the creation of additional restructuring property and the issuance of additional restructuring bonds in an aggregate additional amount not to exceed $4.5 billion (inclusive of the $2,022,324,000 previously issued 2013 restructuring bonds and the $1,002,100,000 previously issued 2015 restructuring bonds). After the 2016A issuance, LIPA will have authority to issue an additional [$1,093,846,000] billion of restructuring bonds under the securitization law.

Specifically, the securitization law coupled with the financing order authorizes LIPA to sponsor multiple bond issuances to finance the recovery of the costs of retiring a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds.

Similar to other UCRC securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that will be incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

Specifically, the State of New York pledges to and agrees with the bondholders, the issuer and LIPA that the State will not in any way: 1) take or permit any action that limits, alters or impairs the value of the restructuring property; or 2) except as required by the adjustment mechanism authorized by the securitization law and set forth in the financing order, reduce, alter or impair restructuring charges that are imposed, collected and remitted for the benefit of the bondholders until all principal of and interest on the bonds and all ongoing financing costs have been repaid in full.

The state pledge provides protection to bondholders; to the extent LIPA or the State of New York have obligations under the financing order, the LIPA Reform Act provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to change the securitization law would be through a legislative action which would be subject to the state pledge.

The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims.

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

Hawkins Delafield & Wood LLP, LIPA's special counsel, will provide a legal opinion prior to securitization closing to the effect that the bondholders (or the trustee acting on their behalf) could successfully challenge under the contracts clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Hawkins Delafield & Wood LLP, LIPA's bond counsel, will provide a legal opinion prior to securitization closing to the effect that under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The Financing Order

The securitization law authorizes LIPA's securitization program, while a separate financing order implements each issuance of bonds under the program.

On June 26, 2015, LIPA Trustees adopted Financing Order No. 3 (the financing order), together with Financing Order No. 2 and Financing Order No. 4 and on July 15, 2015, the New York Public Authorities Control Board approved them. On August 14, 2015, they became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, and the 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property.

The issuer is issuing the 2016A restructuring bonds pursuant to Financing Order No. 3, which authorizes: 1) the creation of the 2016A restructuring property; 2) LIPA to sell the 2016A restructuring property to the issuer under the financing order (the 2016A restructuring property is created simultaneously with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the 2016A restructuring property from LIPA and pay upfront financing costs; and 6) LIPA to use the proceeds of the sale of the 2016A restructuring property to retire a portion of its outstanding debt

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with LIPA setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of LIPA to review and approve the issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The 2016A Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and non-bypassable restructuring charges from all of LIPA's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism to ensure the expected collection of amounts sufficient to pay the amounts specified above on time. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from LIPA's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the Public Service Commission.

Restructuring Charges are Non-Bypassable

The securitization law provides that the restructuring charges are non-bypassable. "Non-bypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (LIPA's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if LIPA no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

Self-Generation in the Service Area is Low

Self-generation, which primarily includes solar and wind, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Self-generation is currently very small in the service area at roughly 0.3% of energy sales. LIPA forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. Certain customers that self-generate will only be responsible for paying restructuring charges based upon their "net-billed" consumption.

Municipalization

Municipalization, or the transfer of the T&D system assets to a municipal owner, would not affect restructuring charge collections because the customers are required to pay the restructuring charges even if the T&D system assets are no longer owned by LIPA. Since 1998, no municipalizations have occurred.

The Service Area

LIPA provides electric transmission and distribution services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which LIPA provided electric transmission and distribution services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. Of these, approximately 89.3% were residential, 10.2% commercial (with very few industrial customers), 0.5% street lighting and 0.0% other public authorities; the average number of customers has been fairly stable over the last 10 years, with very small year-over-year changes ranging from -0.2% to 0.7%. Retail electric usage was 48.2% residential, 48.8% commercial, 0.7% street lighting and 2.2% other public authorities.

In the year ending December 31, 2015, LIPA's largest customer, the Long Island Rail Road, accounted for less than 2.0% of LIPA's total sales, and LIPA's top 10 customers accounted for approximately 7.0% of LIPA's total sales.

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs (the revenue requirement)

3. mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
5. more frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. after the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Under the financing order, the adjustments are to be based on actual charge collections and the servicer's updated assumptions for projected future charge collections, projected uncollectibles and loss in collection of billed charges, and future payments and expenses relating to the restructuring property and the bonds.

No Third-Party Billing/Collection of Charges

Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor regulator will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

Assets Analysis

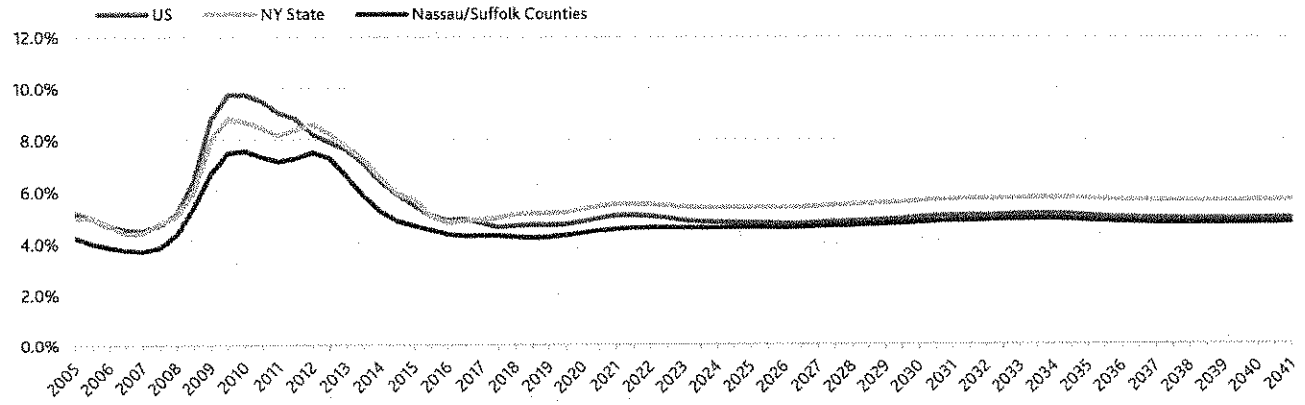
Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, 19 colleges and universities and core research institutions, such as Brookhaven National Laboratory, Cold Spring Harbor Laboratory, and the technology and science developmental centers at Stony Brook and Farmingdale Universities that specialize in the areas of biotechnology, computer sciences, wireless and internet technologies, and energy.

Long Island's median household income is substantially above that of New York and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $98,401 and $88,323, respectively, considerably higher than the $58,687 for New York and the $53,482 for the US. According to LIPA, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 4 shows that the Nassau-Suffolk unemployment rate is lower than that of the US, and we forecast the rate will remain lower.

Exhibit 4
Unemployment Rate*



* Data does not include the Rockaways, Queens, which is also part of the service area.
Source: US Bureau of Labor Statistics and Moody's Analytics

Exhibit 5 shows Moody's Analytics' forecasted average year-over-year changes in various economic stability measures for the service area, compared with New York and the US. The data include Nassau and Suffolk counties, but exclude the Rockaways in Queens, NY. The exhibit shows that forecasted population growth will be relatively flat.

Exhibit 5
Forecasted Average Year-Over-Year Changes in Population and Economic Stability Measures
(Data for 2016-2041, the scheduled maturity date of the bonds)

	Nassau-Suffolk *	New York	US
Population	0.1%	0.1%	0.7%
Households	0.3%	0.4%	0.9%
GDP (Chained 2009 $)	1.6%	1.4%	2.0%
Per Capita Income	3.3%	3.6%	3.6%
Employment (non-farm payroll)	0.5%	0.5%	0.8%

* Does not include the Rockaways, Queens, which is part of the service area
Source: Moody's Analytics

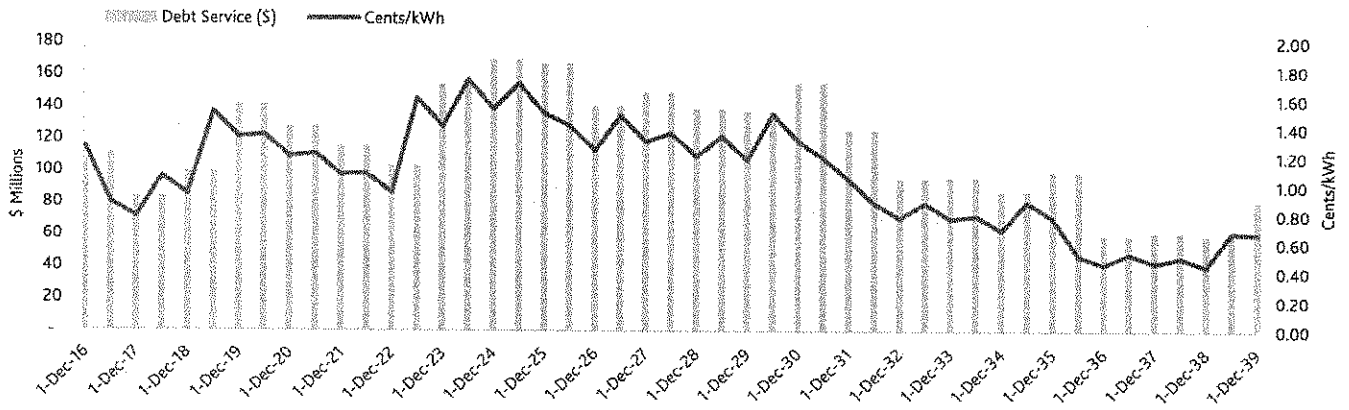
Remote Risk of Severe Ratepayer Base Declines

The securitization's performance is exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's diverse ratepayer base.

LIPA expects the combined initial restructuring charge for the 2013, 2015 and 2016A transactions to be around [6.91%] of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 1, 2016, which is higher than most other UCRC securitizations we rate. The [6.91%] is preliminary and subject to change based on market conditions.

Exhibit 6 shows LIPA's expected restructuring charge, which is the same for all customer classes, and annual debt service of the bonds over the securitization's life. The exhibit shows that the restructuring charge will vary over time to cover the unlevel debt service of the bonds, which mirrors the unlevel debt service of the retired LIPA bonds.

Exhibit 6
Restructuring Charge (Cents/kWh) and Annual Debt Service*



* Preliminary and subject to change based on market conditions.
Source: LIPA; Moody's calculations

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a typical residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand.

Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We looked at three scenarios. In our base case, we assumed 1) electricity consumption as per LIPA's projections, 2) annual net charge-offs as per LIPA's projections, 3) collection curve as per LIPA's projections and 4) actual servicing fee and other expenses (Scenario A).

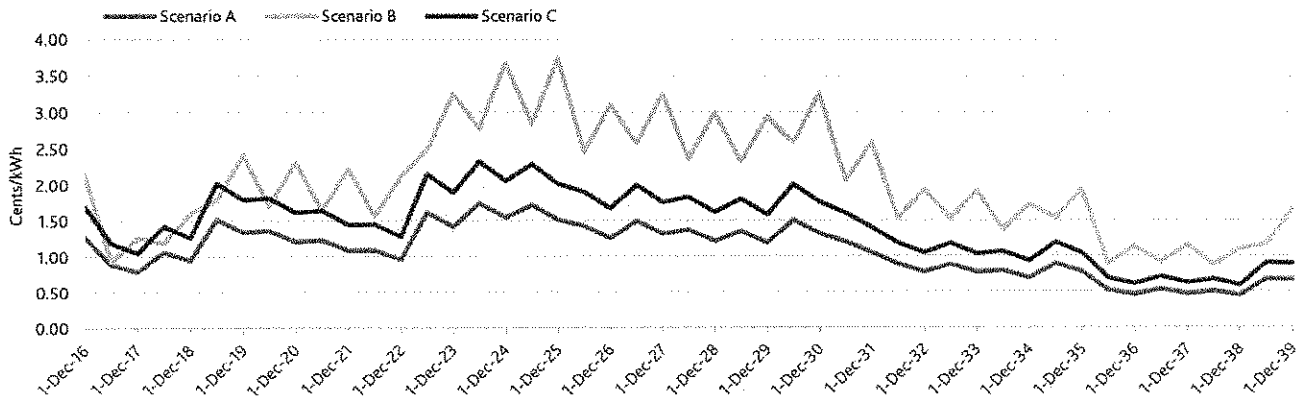
In our first stress scenario, we assumed 1) electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers, 2) annual net charge-offs are the same as in base case, 3) collection curve is the same as in base case, 4) loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year and 4) replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case (Scenario B).

In our second stress scenario, we assumed 1) electricity consumption is reduced by 25% permanently against the first year base case projection, 2) annual net charge-offs the same as in base case, 3) collection curve is the same as in base case and 4) servicing fee and all other fees the same as in base case (Scenario C).

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 7 shows the projected restructuring charges for customers in cents per kWh, and Exhibit 8 shows the projected restructuring charge as a percentage of the typical residential customer's total bill assuming monthly usage of 1,000 kWh over the securitization's life.

Exhibit 7

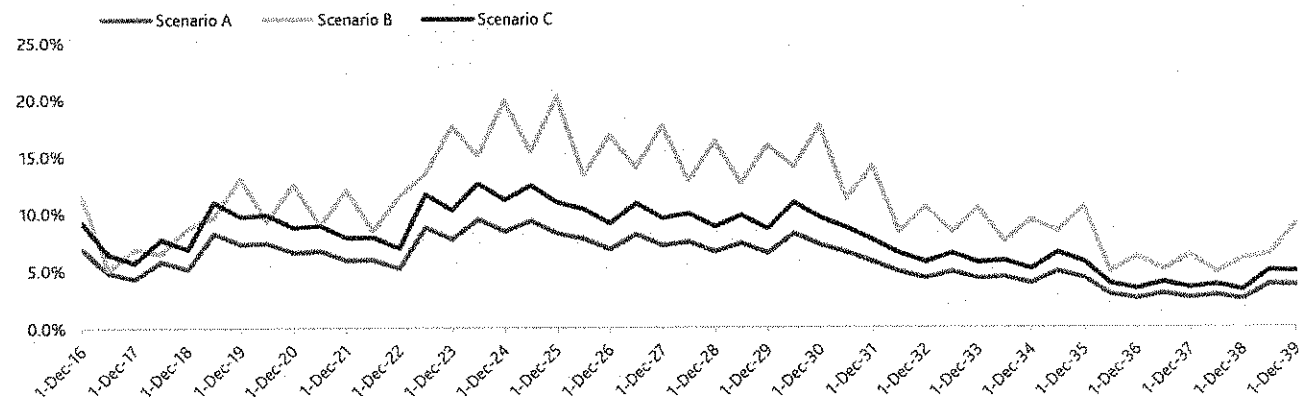
Restructuring Charge (Cents/kWh)



Source: LIPA and the servicers; Moody's calculations

Exhibit 8

Restructuring Charge as a Percentage of a Typical Residential Customer's Total Bill



Source: LIPA and the servicers; Moody's calculations

Forecasting Electricity Consumption

The company monitors the accuracy of each forecast by conducting variance analysis on a monthly basis taking into account weather impacts on kWh sales and deviations from forecast within the customer count. LIPA factors the impact of weather and the growth in self generation, energy efficiencies and the use of electric vehicles into its forecasts.

Exhibit 9 shows LIPA's annual forecast variance for ultimate electric delivery by customer class.

Exhibit 9

Annual Forecast Variance for Ultimate Electric Delivery (MWh)

	2011	2012	2013	2014	2015
Residential	4.3%	-2.4%	-2.7%	-4.3%	0.5%
Commercial	-1.0%	-3.6%	-2.4%	-1.7%	-2.1%
Street Lighting	0.2%	-2.2%	-4.4%	1.7%	-3.8%
Other Public Authorities	5.5%	-13.6%	-4.2%	3.1%	2.5%
Total	1.6%	-3.2%	-2.6%	-2.8%	-0.8%

Note: Negative variance means that the actual electric delivery is lower than the forecasted electric delivery.
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Additional Assets Analysis

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, LIPA or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

PSEG LI will perform, and is capable of performing, LIPA's key servicing duties, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among other things. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

PSEG is a publicly traded energy and energy services company. As of September 30, 2015, it had total assets of approximately $36.5 billion, latest twelve months revenues of approximately $10.9 billion; and employed approximately 12,700 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company (PSE&G), New Jersey's largest regulated electric and gas transmission and distribution utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets, pursuant to the securitization documents.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Loss Experience

Exhibit 10 shows the annual net charge-offs for LIPA, including net charge-offs of customers as part of LIPA's annual charge-off reconciliation process.

Exhibit 10

Net Charge-Offs as a Percentage of Total Billed Retail Electricity Service Revenues

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Billed Electric Revenues ($000)	3,620,532	3,413,091	3,834,255	3,753,765	3,572,133
Net Charge-Offs ($000)	24,753	19,750	20,969	24,659	23,948
Percentage of Billed Revenue	0.68%	0.58%	0.55%	0.66%	0.67%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Days Sales Outstanding

Exhibit 11 shows the average number of days that LIPA's bills remained outstanding during each of the calendar years below.

Exhibit 11

Average Days Sales Outstanding

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Average Days Sales Outstanding	38.55	39.23	39.40	37.13	36.78

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Delinquency Experience

Exhibit 12 shows the delinquency experience of LIPA during each of the calendar years below.

Exhibit 12
Average Monthly Delinquencies of Total Annual Billed Retail Electricity Delivery Service Revenues

	2011	2012	2013	2014	2015
30-59 days	$ 52,766	$ 50,348	$ 59,196	$49,980	$42,775
60-89 days	$ 28,940	$ 28,018	$ 32,104	$24,937	$21,223
90+ days	$108,208	$116,791	$135,828	$86,419	$87,580

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Securitization Structure Overview

LIPA intends to issue one series of tax-exempt, fixed rate bonds, Series 2016A, secured by the collateral on a pari passu basis. Some of the Series 2016A Bonds will be serial bonds, while others will be term bonds, with the term bonds subject to mandatory sinking fund payments. The issuer will have the option to redeem the Series 2016A Bonds with a legal final maturity date on or after [ ], in whole or in part and in any order, on and after [ ]. *All dates in this paragraph will be determined prior to closing.*

Securitization Structure Description

Bond Structure

The issuer will make payments on the bonds semiannually, on June 15 and December 15 of each year, beginning in December 2016. Interest will be paid pro rata among the tranches.

All tranches of bonds will be paid pro rata if the bonds are accelerated following an event of default under the indenture. Partial payments of any scheduled payments will be allocated pro rata between tranches of bonds with the same legal final maturity date.

Optional Redemption

The issuer will not have the option to redeem the Series 2016A Bonds with a final maturity date prior to [ ]. The issuer will have the option to redeem the Series 2016A Bonds with a final maturity date on or after [ ], in whole or in part and in any order, on and after [ ], at a redemption price of 100% of the principal amount of the Series 2016A Bonds to be redeemed, plus accrued interest to the redemption date. *All dates in this paragraph will be determined prior to closing.*

Indenture Accounts

The trustee will hold the collection account in its name and will deposit the restructuring charge collections and all other amounts it receives with respect to the collateral. The collection account will consist of five subaccounts: the general subaccount, the excess funds subaccount, the operating reserve subaccount, the debt service reserve subaccount and the upfront financing cost subaccount.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other ongoing financing costs to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;

6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;
7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates.

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

The annual true-up adjustment will be calculated to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment.

Events of Default

The Events of Default under the indenture are:

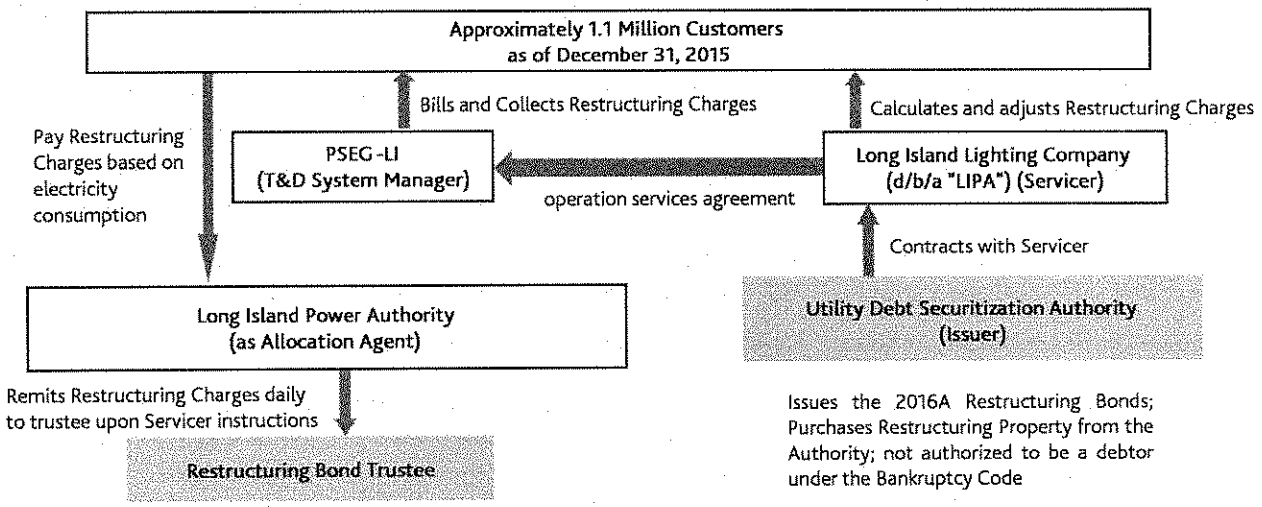
1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period); or
5. an action violating the financing order or state pledge.

Securitization Structure Analysis

Securitization Parties and Responsibilities

Exhibit 13 provides a general summary of the key securitization parties, their roles and their various relationships to the other parties.

Exhibit 13
Securitization Parties and Responsibilities

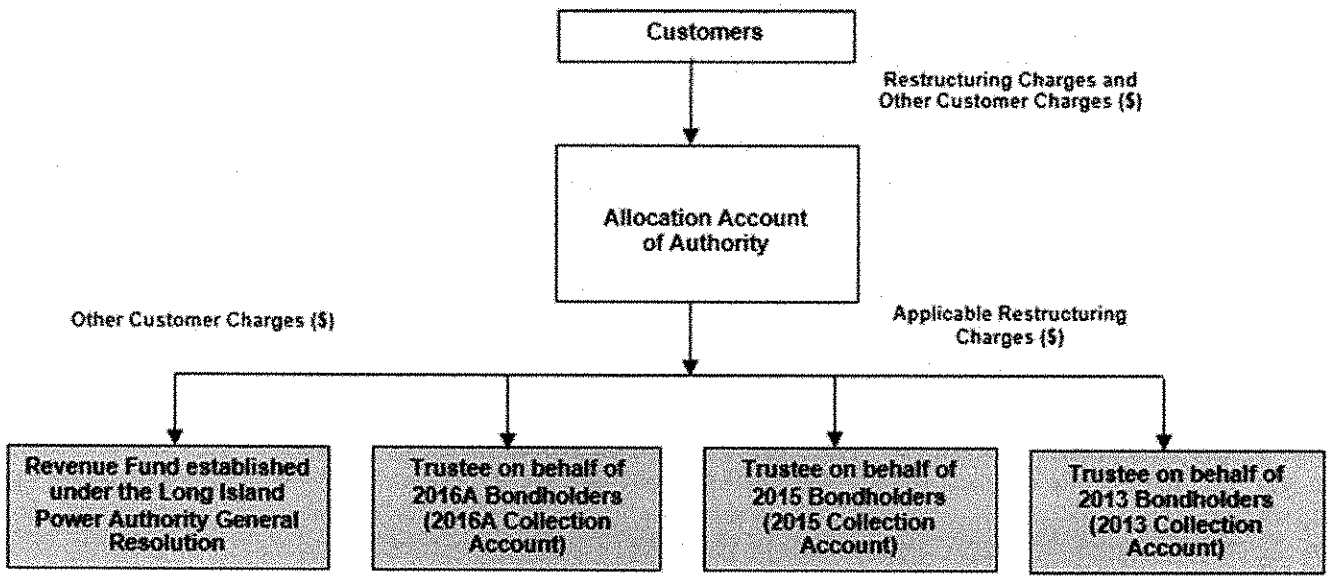


Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Flow of Funds

Exhibit 14 shows a general summary of the securitization's flow of funds: PSEG-LI will bill and collect the restructuring charges from LIPA's customers on behalf of the servicer. The servicer will be required to cause all customer payments (including restructuring charge collections) to be deposited into the allocation account, which LIPA established to hold all payments until the checks clear. Initially, the account will be held by J.P. Morgan Chase Bank. If customers make payments directly to the servicer instead of to the allocation account, the servicer must remit such payments to the allocation account within two business days' receipt by the servicer or LIPA. LIPA, as allocation agent, will control and administer the allocation account for the benefit of the trustee for the holders of the bonds and the trustee for the holders of LIPA bonds. On each business day, the allocation agent must transfer to the collection account the amount of restructuring charge collections that the servicer estimates to have been received and deposited into the allocation account on such day.

Exhibit 14
Flow of Funds



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Legal Structure

The primary steps of the securitization are as follows:

1. The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under chapter 9 or any other provision of the Bankruptcy Code. The securitization law formed the issuer solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.
2. The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from LIPA and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.
3. LIPA will use the proceeds from the sale of its restructuring property to retire certain of its outstanding debt. LIPA will act as the servicer of the restructuring property under a servicing agreement with the issuer and as the issuer's administrator under an administration agreement with the issuer. PSEG-LI will act as LIPA's service provider and will perform LIPA's key servicing duties under an operations servicing agreement with LIPA.

Sponsor and Seller

LIPA will be the securitization's sponsor and the seller of the restructuring property. LIPA is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a chapter 9 debtor pursuant to its enabling legislation.

LIPA took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of LIPA through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

LIPA is governed by a Board of Trustees (LIPA Trustees) and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. LIPA is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

Pursuant to LILCO's organizational documents, LIPA conducts and manages LILCO's business and affairs. Accordingly, LILCO is controlled by LIPA.

LIPA and LILCO are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LILCO conducts the electric business in the service area and is responsible for providing service to customers in the service area. LIPA and LILCO are also parties to an administrative services agreement pursuant to which LIPA provides personnel, personnel-related services and other services necessary for LILCO to provide electric service in the service area.

To assist LIPA (acting through LILCO) in providing electric service in the service area, LIPA and LILCO have entered into operating agreements to provide them with the operating personnel and a significant portion of the power supply resources necessary for LILCO to continue to provide such electric service. From 1998 through 2013, National Grid plc, certain of its subsidiaries (National Grid subs) or their predecessors performed most such operations.

Beginning in 1998, a National Grid sub was the manager of LILCO's electric T&D system under a management services agreement which expired at the end of 2013. Beginning January 2014, PSEG-LI assumed the role from the National Grid sub. T&D system management services include, among other functions, the day-to-day operation and maintenance of the T&D system, customer service, billing and collection, meter reading and forecasting energy consumption.

In July 2013, New York Governor Andrew Cuomo signed the LIPA Reform Act, codified as Chapter 173, Laws of New York, into law. On March 30, 2015, the New York State Assembly and Senate adopted Chapter 58 of the Laws of New York, 2015, which amended the LIPA Reform Act to authorize the issuer to issue additional restructuring bonds. On April 13, 2015, the Governor signed Chapter 58 into law. On May 13, 2015, the time for filing any challenges to the LIPA Reform Act, as amended, expired and no such challenges were filed.

The LIPA Reform Act effectively shifted the major operational and policy-making responsibilities for the T&D system, including significant responsibilities relating to capital expenditures, budgets and emergency response, from LIPA to PSEG-LI. PSEG-LI's scope of services and LIPA's reserved rights have been adjusted to reflect the shift in operations, management and policy making responsibilities while enhancing LIPA's oversight rights. The LIPA Reform Act also requires that staffing be kept at levels only necessary to ensure that LIPA is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and to oversee the activities of PSEG-LI.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

MOODY'S INVESTORS SERVICE

CREDIT OPINION
29 July 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016B

Long Island Power Authority-Sponsored Utility Cost Recovery Bonds

Capital Structure

Exhibit 1

Provisional (P) Ratings*

Series	Provisonal Rating	Expected Amount	Tax Status	Coupon	Payment Frequency	Expected Maturity	Legal Final Maturity**
Series 2016B	(P)Aaa (sf)	$475,000,000	Tax Exempt	Fixed	Semi-annual	12/15/2033	12/15/2035

The ratings address the expected loss posed to investors by the legal final maturity. In our opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Our ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.

* Principal amounts and legal maturity dates are preliminary and subject to change

** Reflects the latest legal maturity date among the tranches in the series

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Summary Rating Rationale

We have assigned provisional ratings to the single series of bonds (Series 2016B bonds, or the bonds) that Utility Debt Securitization Authority (the issuer) will issue. The Long Island Power Authority ("the Authority", Baa1 stable), which is a corporate municipal instrumentality and a political subdivision of the State of New York, is sponsoring the transaction. The Authority wholly owns the Long Island Lighting Company (doing business as "LIPA", the servicer), which provides electric transmission and distribution services in most of Nassau and Suffolk counties and a portion of Queens county. New York State legislation formed the issuer to securitize a special charge (the restructuring charge) imposed on the Authority's customers' utility bills. The Authority will use the proceeds of the securitization to retire a portion of its outstanding debt. The Series 2016B bonds will be the fourth utility cost recovery bonds sponsored by the Authority since 2013.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 28 July 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

The primary collateral backing the Series 2016B bonds is the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area (the restructuring property). New York State legislation, along with an irrevocable financing order adopted by the Authority on June 26, 2015, authorizes the creation of the restructuring property.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of the Authority's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability and diversity of the ratepayer base in the Authority's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of legislation and financing order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015, permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other utility cost recovery charge securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order (the state pledge). In addition, the securitization and financing order contain the typical true-sale and security interest provisions.

The Authority's irrevocable financing order authorizes the Authority to recover specified costs of retiring its corporate debt by collecting restructuring charges. The restructuring property grants the issuer the irrevocable right to impose, bill and collect irrevocable, nonbypassable restructuring charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. Nonbypassable refers to the requirement that the charges be levied on all of the Authority's existing and future retail electric customers receiving transmission and distribution services in its service area, including customers of any Authority successor or assignee.

True-up adjustment mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually and, if necessary, semiannually, to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments at any time if the servicer deems necessary to ensure timely bond payments. The servicer may also elect to perform a voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). This voluntary mid-year adjustment helps reduce the volatility of the restructuring charge to customers. The inclusion of an operating reserve account and a debt service account provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between true-ups.

Affluent ratepayer base: The size, economic stability and diversity of the ratepayer base in the Authority's service area are credit strengths. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (54% by revenue) and commercial customers (43% by revenue).

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

Experienced servicer: LIPA has considerable prior servicing experience with restructuring charges, including acting as servicer for the Authority's three outstanding utility cost recovery charge securitizations.

Although LIPA is the named servicer for this securitization, PSEG Long Island LLC (PSEG-LI, unrated), a subsidiary of Public Service Enterprise Group Incorporated (Baa2, positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others. PSEG-LI currently performs these same functions for the three outstanding utility cost recovery charge securitizations sponsored by the Authority. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

Credit Challenges

Challenges to securitization law and financing order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the restructuring property. However, we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for the Authority to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered. Several past challenges to securitization laws such as this in other jurisdictions have been unsuccessful.

Potential for insufficient collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. The Authority's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, by which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments are required to occur annually and can occur semi-annually and at the discretion of the servicer on an interim basis as needed.

Relatively high restructuring charge: The Authority expects the securitization's initial restructuring charge to represent around 2.55% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in the Authority's service area will receive as of June 15, 2017. The initial restructuring charge for the 2016B transaction, combined with the current restructuring charge for the 2013, 2015 and 2016A transactions, is expected to represent approximately 7.8% of a 1,000 kWh residential customer's bill. This percentage charge is relatively high compared to charges in other utility cost recovery bond transactions. For context, the three most recent utility cost recovery bond issuances we rated, Duke Energy Florida Project Finance, LLC, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 2.5%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively. A high cumulative recovery charge could incentivize a legal challenge to the restructuring charges or the securitization law, or could increase political pressure to rescind or change the securitization law through legislation. This concern is mitigated by the Authority's securitization offset rider, which reduces the Authority's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Restructuring property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from the Authority or its successors or assignees
Service Area:	The Authority's service area covers approximately 1.1 million residential, commercial customers in Nassau and Suffolk counties* and the Rockaway Peninsula

*Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	$475,000,000*
Structure:	Discrete trust
Credit Enhancement:	Mandatory uncapped true-up mechanism; operating reserve account (0.5%); debt service reserve account (1.5%)
Transaction Parties	
Sponsor/Depositor/Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority
Transmission and Distribution System Manager:	PSEG Long Island LLC (unrated)
Trustee:	The Bank of New York Mellon Trust Company, National Association (Aa1/Aa2 stable, a1)**

*Preliminary and subject to change based on market conditions
**The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Overview

The collateral for this pool is the restructuring property, consisting of the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area.

The bonds are also secured by funds on deposit in the collection account, including the debt service reserve subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds with respect to the pledged collateral.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow the Authority to finance the retirement of a portion of its outstanding debt through the issuance of restructuring bonds by the issuer, resulting in savings to the Authority's customers on a net present value basis. The securitization law gives the Authority the right to impose restructuring charges, which is the key asset backing this securitization.

The securitization law, coupled with the adoption of additional financing orders, authorizes the Authority to create additional restructuring property as collateral for the issuance of bonds. The Authority will use this issuance to retire a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds. The current financing order allows for an aggregate amount not to exceed $4.5 billion (inclusive of the previously-issued bonds: $2,022,324,000 in 2013, $1,002,115,100 in 2015 and $636,770,000 in 2016). After the Series 2016B issuance, the issuer has capacity issue an additional $363.8 million of restructuring bonds under the initial authorization.

Similar to other utility cost recovery charge securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that is incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

The Financing Order

On June 26, 2015, the Authority adopted Financing Order No. 4 (the financing order), together with Financing Order No. 2 and Financing Order No. 3; all of which were approved by the New York Public Authorities Control Board on July 15, 2015. On August 14, 2015, the financing orders became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the Series 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, the Series 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property and the Series 2016A restructuring bonds that the issuer issued pursuant to Financing Order No. 3 are secured by the 2016A restructuring property.

The issuer is issuing the bonds pursuant to the financing order, which authorizes: 1) the creation of the restructuring property; 2) the Authority to sell the restructuring property to the issuer under the financing order (the restructuring property is created simultaneous with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the restructuring property from the Authority and pay upfront financing costs; and 6) the Authority to use the proceeds of the sale of the restructuring property to retire a portion of its outstanding debt.

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with the Authority setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of the Authority to review and approve the

issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The State Pledge

The securitization law includes a pledge from the State of New York to the bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order.

Any action of the New York legislature adversely affecting the restructuring charges or the ability to impose, charge or collect the restructuring charges would likely require the State of New York to pay just compensation under the "takings clause" of the United States and State of New York Constitutions.

The state pledge provides protection to bondholders. To the extent the Authority or the State of New York have obligations under the financing order (e.g. to file for true-up adjustments), the securitization law provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

The Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and nonbypassable restructuring charges from all of the Authority's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism. This is designed to ensure the expected collection of amounts sufficient to timely pay the amounts specified above. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from the Authority's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the New York Public Service Commission.

The restructuring charges are nonbypassable; "nonbypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (the Authority's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if the Authority no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

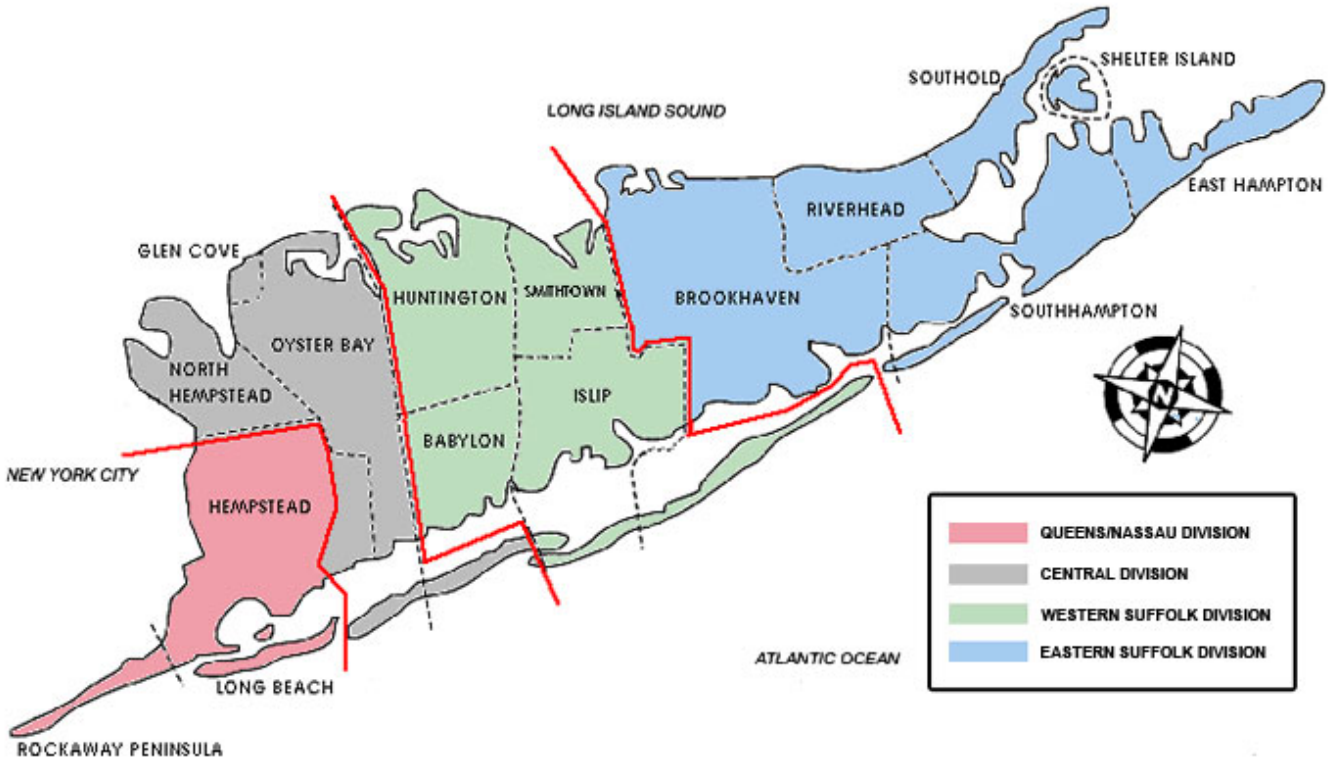
The Service Area

The Authority provides electric T&D services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which the Authority provided electric T&D services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. In 2015, retail electric usage was 54.4% residential, 43.5% commercial, 0.7% street lighting and 1.5% other public authorities. Exhibit 4 below shows the service area.

Exhibit 4
LIPA Service Area



Source: PSEG-LI website

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. Initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. Standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs
3. Mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. Voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs

5. More frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. After the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, the Authority, or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

Although LIPA is the named servicer for this securitization, PSEG-LI, a subsidiary of Public Service Enterprise Group Incorporated (PSEG, Baa2 positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting the restructuring charges, meter reading and forecasting electricity usage, among others. PSEG is a publicly traded energy and energy services company. As of December 31, 2015, it had total assets of approximately $37.5 billion, last twelve months revenues of approximately $10.4 billion; and employed approximately 13,000 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company, New Jersey's largest regulated electric and gas T&D utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets.

Billing

PSEG-LI will perform LIPA's duties of billing and collecting the restructuring charges, meter reading and forecasting electricity usage. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

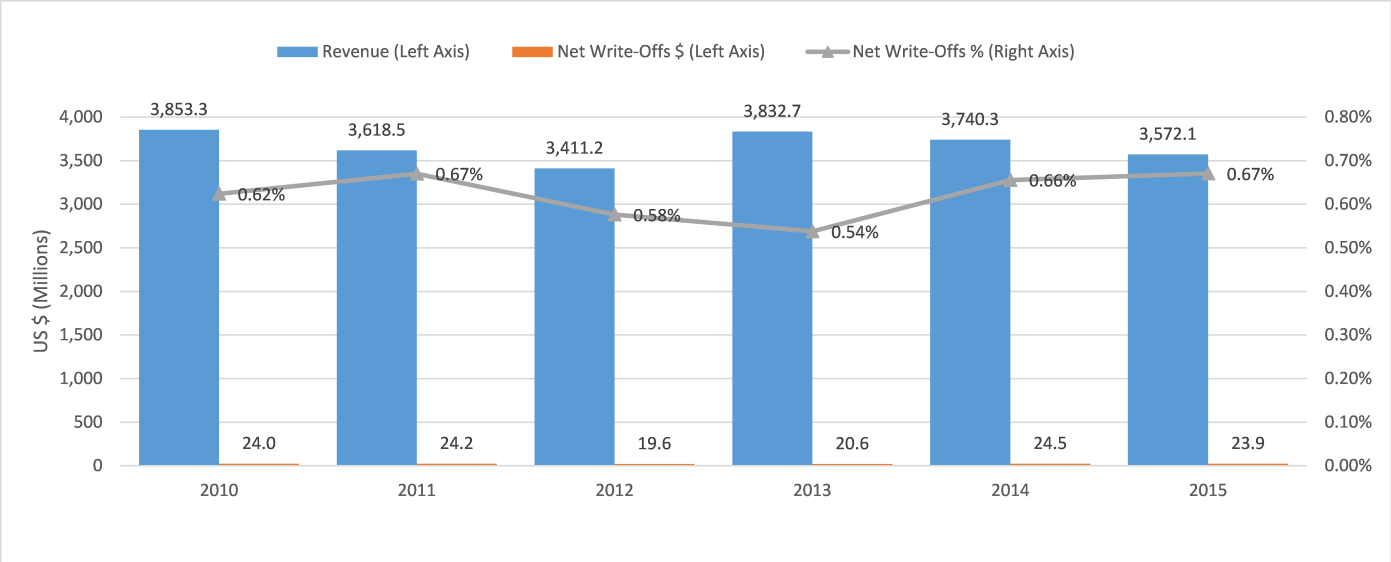
Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor servicer, and any owner of the T&D system assets will take steps to ensure nonbypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor servicer will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Exhibit 5 below shows net write-offs since 2010, which have ranged from a low of 54bps of billed revenue in 2013 to a peak of 67bps in 2011 and 2015.

Exhibit 5

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Exhibit 6 below shows LIPA customer delinquency data since 2010.

Exhibit 6

Average Monthly Delinquencies as a Percentage of Total Billed Revenues

	2010	2011	2012	2013	2014	2015
30-59 days	1.40%	1.46%	1.48%	1.54%	1.34%	1.20%
60-89 days	0.73%	0.80%	0.82%	0.84%	0.67%	0.59%
90+ days	2.43%	2.82%	3.42%	3.54%	2.31%	2.46%
Total	4.56%	5.08%	5.72%	5.93%	4.31%	4.25%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Analysis

Legal Analysis

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

New York does not have a referendum or initiative process by which the securitization law may be challenged. Therefore, the only way for the securitization law to be changed would be through a legislative action which would be subject to the state pledge.

Bondholders (or the trustee acting on their behalf) could challenge under the Contract Clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would likely be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The financing order provides that the restructuring property may be pledged to secure the payment of the bonds, financing costs, and other amounts owed. The securitization law provides that a valid and enforceable security interest in the restructuring propery will attach and be perfected at the time the pledge is made. The lien and security interest attach without any physical delivery of collateral or other act. The securitization law provides that the pledge is continuously perfected and has priority over any other lien created by the operation of law or otherwise that may be created subsequently.

Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, more than 20 colleges and universities and core research institutions.

Long Island's median household income is substantially above that of New York State and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $99,035 and $86,266, respectively, considerably higher than the $58,878 for New York State and the $54,562 for the US. According to the Authority, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 7 below shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 7
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	51.5%	52.8%	52.2%	52.4%	53.2%	53.2%	54.1%	53.8%	54.2%	54.4%	53.4%	54.4%
Commercial	46.6%	45.1%	45.7%	45.4%	44.5%	44.5%	43.8%	43.9%	43.7%	44.6%	44.0%	43.5%
Street Lighting	0.7%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.7%	0.7%	1.1%	0.7%
Other Public Authorities	1.1%	1.4%	1.3%	1.4%	1.5%	1.5%	1.3%	1.5%	1.4%	0.3%	1.5%	1.5%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

For the twelve months ending on June 30, 2016, the ten largest retail electric customers represented approximately 5.7% of the Authority's retail kilowatt-hour sales resulting in 4.8% of revenues. As of the closing date, no customer or group of related commercial is exempt from paying the restructuring charges. Exhibit 8 below shows the energy usage and revenue from the top 10 commercial customers.

Exhibit 8
Top 10 LIPA Commercial Customers

	Industry	Energy Usage (GWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	State Public Transportation	303.8	1.52%	$45,428,220	1.32%
2	Telecommunications	145.7	0.73%	$22,870,878	0.67%
3	Nas/Suf County Govt Twnsps	132.6	0.67%	$20,800,037	0.61%
4	Water Districts	122.7	0.62%	$20,598,940	0.60%
5	Health Services-Hospitals	120.0	0.60%	$17,580,632	0.51%
6	Retail Food	102.6	0.51%	$16,725,102	0.49%
7	Real Estate/Developers	66.9	0.34%	$5,284,931	0.15%
8	Nassau Universities	51.0	0.26%	$7,354,337	0.21%
9	Manufacturing	43.7	0.22%	$4,489,759	0.13%
10	Retail Non-Food	36.4	0.18%	$3,726,650	0.11%
	Total	**1,125**	**5.65%**	**164,859,486**	**4.81%**

Source: Utility Debt Securitization Authority

Remote Risk of Severe Ratepayer Base Declines

The Series 2016B bonds are exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's stable ratepayer base. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Customers that self-generate will only be responsible for paying restructuring charges based upon their net-billed consumption. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The restructuring charge will be recoverable from all customers taking T&D service. As of July 29, 2013, the securitization law defines the service area to include two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. Thus, the service area is fixed by the legislation. If the service area expands in the future, the new customers would be subject to the restructuring charge on a going-forward basis.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges. Moreover, municipalization would not affect restructuring charge collections since a successor and its customers will be subject to the restructuring charges, even if the T&D system assets are no longer owned by the Authority. Since 1998, no municipalizations have occurred in the service area.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact the Authority's operations, temporarily interrupting transmission, distribution and consumption of electricity, hence reducing the collections of restructuring charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the Authority's service area, which could cause the per-kWh restructuring charge to be greater than expected.

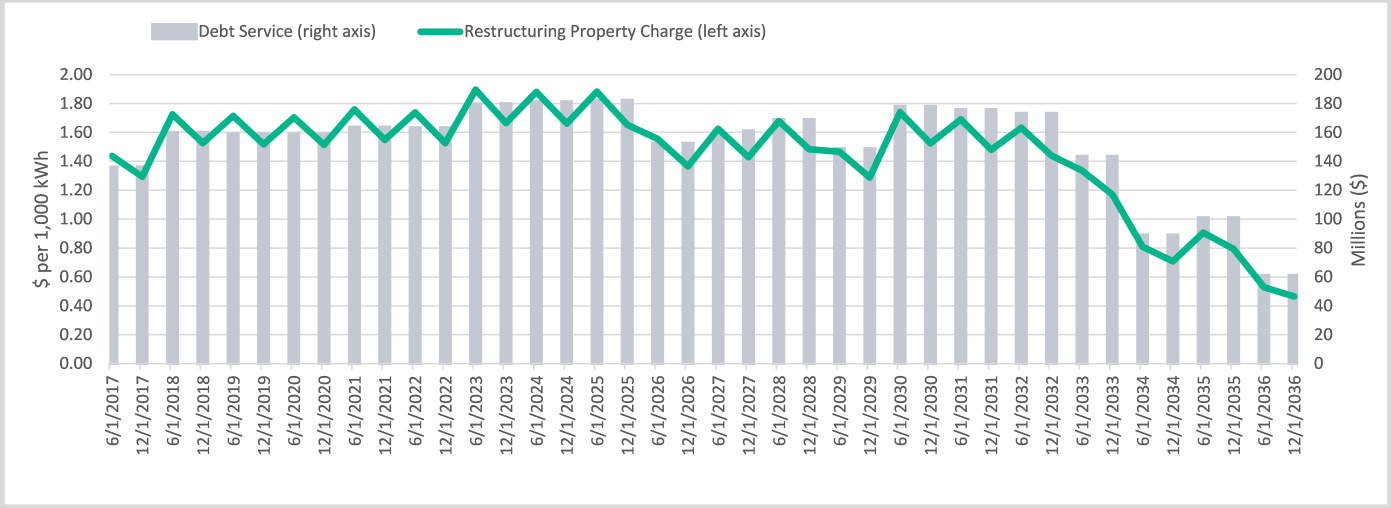
Forecasting Electricity Consumption

The Authority's internal company forecasts are used for projections of electricity price and weather conditions. The forecast incorporates customer usage, delinquencies and write-offs, among other inputs.

The Authority assesses the restructuring charges based on its forecasts of customer usage. The amount and the rate of restructuring charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs.

Exhibit 9 below shows the forecasted restructuring charge per 1,000 kWh and scheduled debt service payments.

Exhibit 9
Restructuring Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: Utility Debt Securitization Authority; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Additionally, there may be insufficient funds if the servicer inaccurately forecasts electricity consumption or uses inaccurate customer delinquency or charge-off data when setting or adjusting the 2016B restructuring charges. We view this risk as remote, as the maximum forecast variance since 2011 has been less than 6% per customer category, as shown in Exhibit 10.

Exhibit 10
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	4.31%	-2.37%	-2.69%	-4.28%	0.51%
Commercial	-1.00%	-3.59%	-2.39%	-1.70%	-2.07%
Street Lighting	0.17%	-2.19%	-4.44%	1.71%	-3.81%
Other Government	5.49%	-13.64%	-4.20%	3.13%	2.49%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm that the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the restructuring charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the restructuring charge, both in absolute terms and as a percentage of the customer's energy bill. In our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the restructuring charge is as high as 22.74%, higher than most other utility cost recovery charge securitizations. This concern is mitigated by the Authority's securitization offset rider, which reduces the delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

The Authority expects the combined initial restructuring charge for the 2013, 2015, 2016A and 2016B transactions to be around 7.8% of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 15, 2017, which is higher than most other utility cost recovery charge securitizations we rate. The 7.8% is preliminary and subject to change based on market conditions.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the Authority's projections
2. Implied net charge-offs of 0.62%
3. Collection curve projects 20.0% of collections within 30 days and 80.0% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains LIPA or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case

4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year

5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case

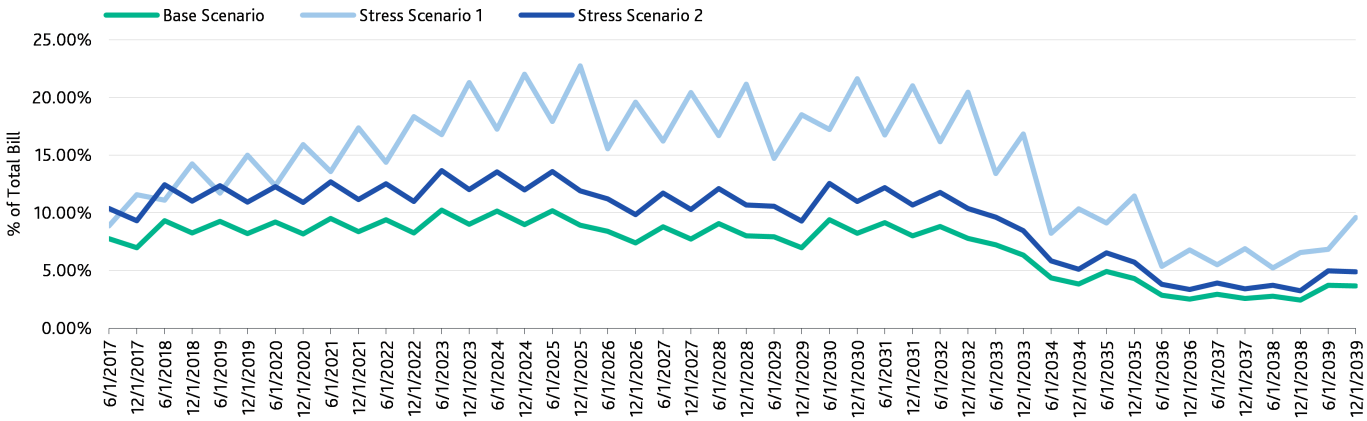
3. Collection curve is the same as in base case

4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 11 shows the projected restructuring charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 12 shows the projected restructuring charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 11

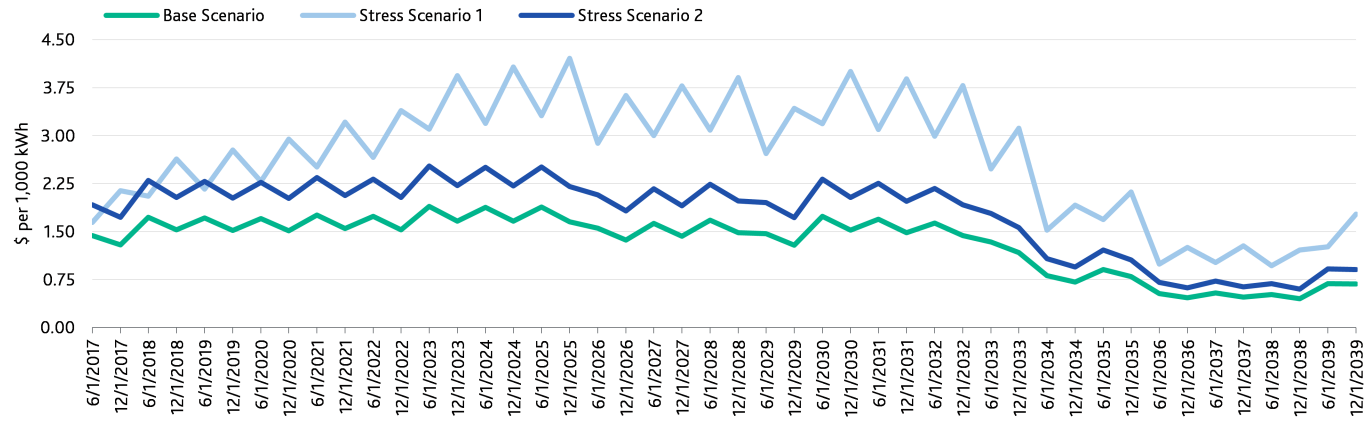
Projected Restructuring Charge as a Percentage of a Customer's Total Bill



Source: Utility Debt Securitization Authority; Moody's calculations

Exhibit 12

Projected Restructuring Charge ($ per 1,000 kWh)



Source: Utility Debt Securitization Authority; Moody's calculations

Comparables

As shown in Exhibit 13, stress scenario 1 is more stressful and results in a peak restructuring charge equal to about 22.74% of a 1,000 kWh per month customer's bill. This is high compared to other utility cost recovery deals.

Exhibit 13

Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
UDSA 2016B	10.25%	22.74%	13.66%
UDSA 2016A	7.21%	16.04%	10.40%
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

On the closing date, the Authority will sell the restructuring property to the issuer pursuant to a sale agreement between the issuer and the Authority. LIPA will be the servicer of the restructuring property. PSEG-LI will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others.

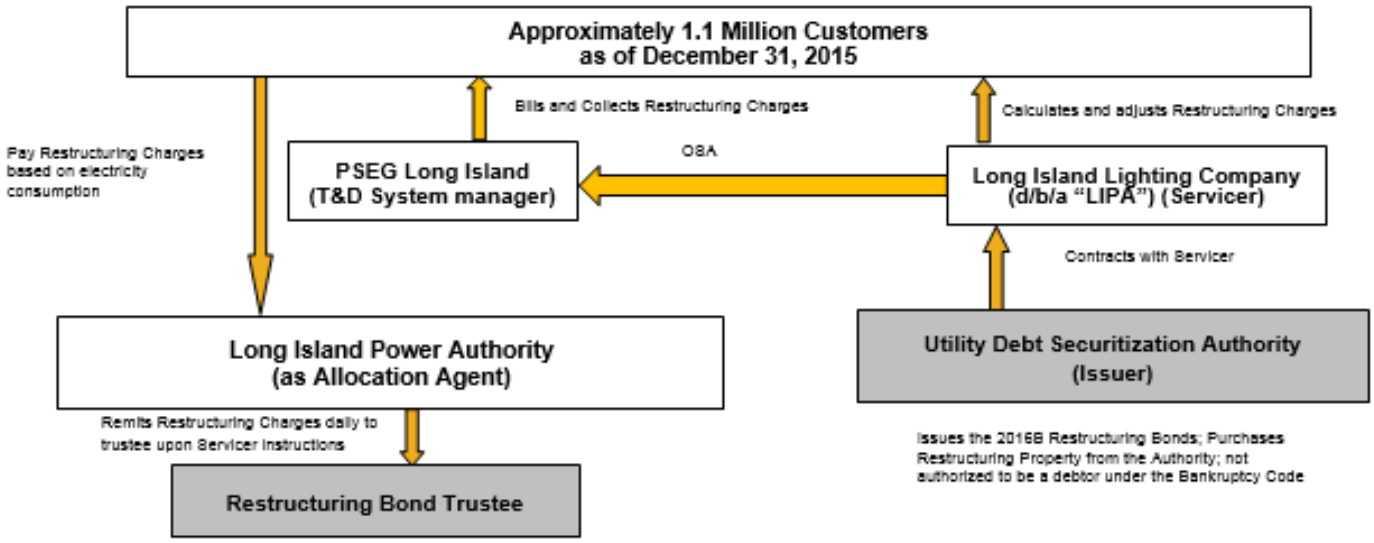
Securitization Structure Description

Structural Diagram

Exhibit 14 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 14

Structural Diagram



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

1. The issuer purchases the restructuring property from the Authority and issues the Series 2016B bonds
2. The issuer contracts with LIPA as servicer to calculate and adjust the restructuring charges
3. LIPA contracts with PSEG-LI to bill and collect the restructuring charges

4. Electric utility customers pay restructuring charge on electricity bills based on electricity consumption
5. The Authority, as allocation agent, remits the restructuring charges to the trustee on a daily basis

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the debt service reserve account. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Operating Reserve Account

On or before the date of issuance of the bonds, the Authority will deliver to the trustee for deposit into the operating reserve account an amount not less than 0.50% of the initial aggregate principal amount of the Series 2016B bonds. Amounts may be withdrawn from the account to pay scheduled principal on the Series 2016B bonds, provided however that an amount not less than 0.50% remains on deposit in the account.

Debt Service Reserve Account

On or before the date of issuance of the bonds, the issuer will make a capital contribution to the trustee in an amount not less than 1.5% of the aggregate outstanding principal amount of the bonds, which will be deposited in the debt service reserve account. Under the financing order, any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the subaccount and applied to subsequent payments.

Cash Commingling

The servicer is entitled to commingle the restructuring charges that it receives with its own funds until it remits the funds to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from restructuring charges with other funds.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the allocation account within two business days. Any discrepancy between estimated and actual collections is mitigated by the true-up mechanism, which allows the Authority to adjust the restructuring charges at any time as needed to make timely interest and principal payments on the bonds.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other operating expenses to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;
6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;

7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

LIPA will calculate the annual true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment. Should LIPA perform a mid-year true-up adjustment, LIPA will similarly calculate the mid-year true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next mid-year true-up adjustment.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period);
5. commencement of an involuntary bankruptcy or similar proceeding against the issuer which remains in effect for 90 days;
6. commencement of a voluntary bankruptcy or similar proceeding by the issuer; or
7. an action violating the financing order or state pledge.

Issuance of Additional Bonds

The issuer can issue up to $4.5 billion in restructuring bonds over four distinct financing orders. To the extent the amount authorized is not issued under this fourth and final financing order, additional financings may be authorized by new financing orders to be adopted at a later date. Each series of restructuring bonds that may be issued will be backed by separate restructuring property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of restructuring bonds. However, the issuer may not issue additional restructuring bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of restructuring property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the restructuring property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under Chapter 9 or any other provision of the Bankruptcy Code.

The issuer was formed solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.

The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from the Authority and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.

Sponsor and Seller

The Long Island Power Authority will be the securitization's sponsor and the seller of the restructuring property. The Authority is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a Chapter 9 debtor pursuant to its enabling legislation.

The Authority took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of the Authority through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

The Authority is governed by a Board of Trustees and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. The Authority is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

The Authority and LIPA are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LIPA conducts the electric business in the service area and is responsible for providing service to customers in the service area. The Authority and LIPA are also parties to an administrative services agreement pursuant to which the Authority provides personnel, personnel-related services and other services necessary for LIPA to provide electric service in the service area.

Administrator

LIPA will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. LIPA, as administrator, will be entitled to receive an annual administration fee of $100,000 payable annually, in arrears.

Securitization Structure Analysis

The key structural feature of this transaction is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage.

In this transaction, the strong true-up mechanism combined with nonbypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds. The operating reserve and debt service accounts provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of LIPA (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

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REPORT NUMBER 1033393

MOODY'S
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CREDIT OPINION
16 June 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Duke Energy Florida Project Finance, LLC Series A Bonds

First Duke Energy Florida-Sponsored Utility Cost Recovery Bond

Capital Structure

Exhibit 1
Provisional (P) Ratings

Series	Provisional Rating	Expected Amount	Coupon	Legal Final Maturity Date
Series A 2018	(P)Aaa (sf)	$183,000,000	Fixed	3/1/2022
Series A 2021	(P)Aaa (sf)	$150,000,000	Fixed	9/1/2024
Series A 2026	(P)Aaa (sf)	$436,000,000	Fixed	9/1/2031
Series A 2032	(P)Aaa (sf)	$250,000,000	Fixed	3/1/2035
Series A 2035	(P)Aaa (sf)	$275,290,000	Fixed	9/1/2038
Total		$1,294,290,000		

The ratings address the expected loss posed to investors by the legal final maturity. In Moody's opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.
Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Summary Rating Rationale

We have assigned provisional ratings to the five classes of bonds (Series A bonds, or the bonds) that Duke Energy Florida Project Finance, LLC (the issuer) will issue. The issuer is wholly-owned by Duke Energy Florida, LLC (DEF; A3 Stable), a subsidiary of Duke Energy Corporation (Baa1 negative), one of the largest utility holding companies in the US. DEF formed the issuer to securitize a special charge on DEF customers' utility bills. The charge is imposed to recover certain costs associated with DEF's retirement of its Crystal River Unit 3 (CR3) nuclear power plant, including certain capitalized costs of the retired nuclear generating asset and ancillary costs and fees, as well as financing costs associated with this issuance. The Series A bonds will be the first utility cost recovery bonds sponsored by DEF.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 15 June 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

As a regulated utility, DEF is typically entitled to recover specified costs of acquiring, constructing and improving energy generating assets which are generally capitalized and recovered over the useful life of that asset. The Florida Public Service Commission (FPSC) has authorized DEF to recover a specified portion of DEF's remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the CR3 nuclear plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges (nuclear asset-recovery property) is the primary collateral backing the Series A bonds.

Our provisional ratings reflect our assessment of the legal and structural aspects of the transaction including the State of Florida's legislation, financing order and state pledge, the mandatory uncapped true-up mechanism, the relatively low level of the recovery charge as compared to prior rated utility cost recovery transactions, the large and diversified ratepayer base, and the credit quality of the servicer.

Credit Strengths

Strength of Legislation and Financing Order: The State of Florida's legislation (Section 366.95, Florida Statutes, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on December 19, 2015 permits the securitization and strongly protects the nuclear asset-recovery property securing the bonds. Similar to other utility cost recovery securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of Florida pledges to bondholders that it will not (1) alter provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of the nuclear asset-recovery property, or (3) except as authorized by the true-up adjustment mechanism, reduce, alter or impair nuclear asset-recovery charges until the bonds have been repaid in full (the state pledge). In addition, the securitization law and financing order contain the typical strong true-sale and security interest provisions.

FPSC's irrevocable financing order authorizes DEF to recover specified costs of retiring the CR3 nuclear plant by collecting nuclear asset-recovery charges. This nuclear asset-recovery property grants the issuer the right to impose, bill and collect, nonbypassable nuclear asset-recovery charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. In this context, nonbypassable refers to the requirement that the charges be levied on all of DEF's existing and future retail electric customers receiving transmission and distribution services in DEF's service area, including customers of any DEF successor or assignee, and even if a customer elects to purchase electricity from an alternative electric supplier following a deregulation of public utilities in Florida.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts nuclear-asset recovery charges semiannually (and quarterly after the last scheduled maturity date of the bonds of any series) to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time if the servicer deems necessary to ensure timely bond payments.

Relatively Low Recovery Charge: DEF expects the securitization's initial nuclear asset-recovery charge to represent around 2.5% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in DEF's service area will receive as of April 2016; this percentage charge is relatively low compared to charges in other utility cost recovery transactions. For context, the three most recent utility cost recovery bond issuances we rated, Utility Debt Securitization Authority, sponsored by LIPA, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 6.9%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in DEF's service area is a credit strength. The service area includes the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas. The service area primarily

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

includes a mix of residential customers (59% by revenue) and commercial customers (28% by revenue). Unlike most other utility cost recovery securitizations, the service area includes very few industrial customers (6% by revenue), which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Strength and Experience of the Servicer: We rate DEF A3 with a stable outlook. DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

Credit Challenges

Challenges to Securitization Law and Financing Order: Potential state and federal legislative and regulatory actions could weaken the legal protections of the nuclear asset-recovery property; however we view this risk as remote. Florida does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for FPSC to amend or revoke the financing order, would be through an amendment to the state constitution or a legislative action, either of which would violate the state pledge. The risk that the State of Florida would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

The people of the State of Florida have the right to amend the Florida Constitution through initiative powers. It is possible that the people of Florida, using their initiative powers, might amend or repeal the Florida Constitution in a manner affecting the securitization law. The process to propose a revision or amendment to the Florida Constitution by initiative is extremely burdensome. DEF is currently unaware of any efforts to amend the Florida Constitution in a manner which would affect the securitization law in any way.

On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (Section 366.93, Florida Statutes) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

We view the risk to bondholders from this litigation as remote. Several past challenges to securitization laws such as this have been unsuccessful, and even in the low likelihood event that this challenge is successful, the arguments put forward by the plaintiffs are generally not relevant to the securitization law.

Potential for Insufficient Collections: Collections arising from the nuclear asset-recovery property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. DEF's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur semiannually and on an interim basis as needed.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Nuclear asset-recovery property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from DEF or its successors or assignees
Service Area:	DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Series A Senior Secured Bonds
Amount:	$1,294,290,000
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Capital Subaccount
Transaction Parties	
Sponsor/Depositor/Servicer:	Duke Energy Florida, LLC
Issuer:	Duke Energy Florida Project Finance, LLC
FPSC Financial Advisor:	Saber Partners, LLC
Trustee:	The Bank of New York Mellon Trust Company, National Association

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Assets Overview

In February 2013, DEF announced it would close and decommission the CR3 nuclear power plant. The FPSC has authorized DEF to recover a portion of its remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges is the primary collateral (nuclear asset-recovery property) backing the Series A bonds.

The bonds are also secured by funds on deposit in the collection account, including the general subaccount, the capital subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds in respect to the pledged collateral.

Assets Description

The Securitization Law

In 2015, the Florida legislature enacted the securitization law, codified as Section 366.95, Florida Statutes. The securitization law allows electric utilities to access lower-cost funds through nuclear asset-recovery bonds pursuant to financing orders issued by the FPSC. One purpose of the securitization law is to lower the cost to customers associated with the long-term financing of costs incurred in connection with the early retirement or abandonment of a nuclear generating asset unit. The early retirement or abandonment must be deemed reasonable and prudent by the FPSC through a final order approving a settlement or other final order issued by the FPSC before July 1, 2017, and the pretax costs to be financed must exceed $750 million.

The securitization law permits DEF to impose irrevocable, binding, nonbypassable nuclear asset-recovery charges on all future and existing customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts sufficient to pay principal of and interest on the bonds and other administrative expenses of the offering. The FPSC governs the amount and terms for collections of these nuclear asset-recovery charges through one or more financing orders issued to DEF. Upon the issuance of the bonds these nuclear asset-recovery charges may not be reduced, impaired, postponed, terminated or otherwise adjusted by the FPSC except as adjusted pursuant to the true-up mechanism.

Florida and other states have passed legislation similar to the securitization law to authorize recoveries by utilities of specified costs, such as hurricane recovery costs, environmental control costs, or costs associated with deregulation of the electricity market, and some of those laws have been challenged by judicial actions or utility commission proceedings. To date, none of those challenges has succeeded.

The securitization law provides that a valid and enforceable security interest in nuclear asset-recovery property will attach only upon the later of: the issuance of a financing order, the execution and delivery of a security agreement with the indenture trustee in connection with issuance of a series of bonds, and the receipt of value for such bonds. Although not governed by the UCC, upon filing notice with the Florida UCC registry the lien and security interest will be continuously perfected. The security interest will have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor. No continuation statements are necessary to maintain such perfection. The servicer pledges in the servicing agreement to file in the Florida UCC registry on or before the closing date and the seller will represent that no prior filing has been made.

The Financing Order

The FPSC issued an irrevocable financing order to DEF on November 19, 2015. That financing order became final and non-appealable on December 19, 2015. Pursuant to the financing order, DEF established the issuer to be a bankruptcy-remote special purpose subsidiary to issue the nuclear asset-recovery bonds. In the financing order, the FPSC authorized the imposition and collection of nuclear asset-recovery charges on all DEF transmission and distribution customers. DEF, as initial servicer, will collect nuclear asset-recovery charges on the issuer's behalf and will remit the nuclear asset-recovery charges to the indenture trustee.

The FPSC expects the financing order to result in a substantial cost savings to ratepayers of $708 million or $1.95 per month for 1,000 kWh, versus the traditional method of cost recovery under current and expected market conditions. The financing order has been praised publicly by regulators and consumer advocacy groups, further insulating the financing order from challenge.

The State Pledge

The securitization law includes a pledge from the State of Florida to the bondholders that it will not (1) alter the provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of nuclear asset-recovery property; or (3) except as authorized by the true-up adjustment mechanism, reduce, alter, or impair the nuclear asset-recovery charges until the bonds have been repaid in full.

Any action of the Florida legislature adversely affecting the nuclear asset-recovery charges or the ability to charge or collect the charges would likely require the State of Florida to pay just compensation under the "takings clause" of the US and Florida Constitutions. The seller agrees that it will institute any action or proceeding necessary to compel performance by the FPSC, the State of Florida or any of their respective agents of any of their obligations or duties under the securitization law or any financing order.

The Nuclear Asset-Recovery Charges

The nuclear asset-recovery charges are nonbypassable, consumption-based charges separate and apart from DEF's base rates; the nuclear asset-recovery charges are to be paid by all existing and future customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts. Such customers must pay nuclear asset-recovery charges even if DEF goes out of business and its transmission and distribution services are taken over by another utility or if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in Florida. No customer receiving transmission or distribution service from DEF can avoid the charge. The only way to avoid the charge is to disconnect from DEF's electric grid.

The nuclear asset-recovery charges are permitted to continue for 276 months from issuance, or until the bonds are paid in full. The expected scheduled final payment date for the Series A 2033 bonds is 240 months from issuance, providing up to an additional 36 months of nuclear asset-recovery charges if necessary to pay the bonds.

The Nuclear Asset-Recovery Costs

The nuclear asset-recovery charges authorized by the financing order allow DEF to recover nuclear asset-recovery costs related to retiring the CR3 nuclear plant located in Citrus County, Florida. CR3 was originally placed in service in 1977. In February 2013, DEF announced the early retirement of the project. DEF's unrecovered net investment in the project was approximately $1.6 billion. In October 2013, the FPSC approved a settlement agreement whereby DEF agreed to write-off approximately $300 million of its unrecovered net investment in CR3. The settlement agreement allowed DEF to recover its remaining unrecovered net investment in the project of approximately $1.3 billion over a 240 month period beginning no later than the first billing period of January 2017.

The nuclear asset-recovery costs financed by the bonds are equal to (i) the balance of the CR3 regulatory asset as of December 31, 2015 as allowed under the financing order minus (ii) $35,894,547, which, pursuant to the FPSC's Final Order PSC-16-0138-FOF-EI issued on April 5, 2016, shall not be included as part of the CR3 regulatory asset, plus (iii) carrying charges accruing at 6.0% per annum on the balance of the CR3 regulatory asset (adjusted as described in (ii) above) from December 31, 2015 through June 21, 2016.

Excluded from the amount being financed is $35,894,547 of costs claimed pursuant to Section 366.93, Florida Statutes. On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (366.93) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

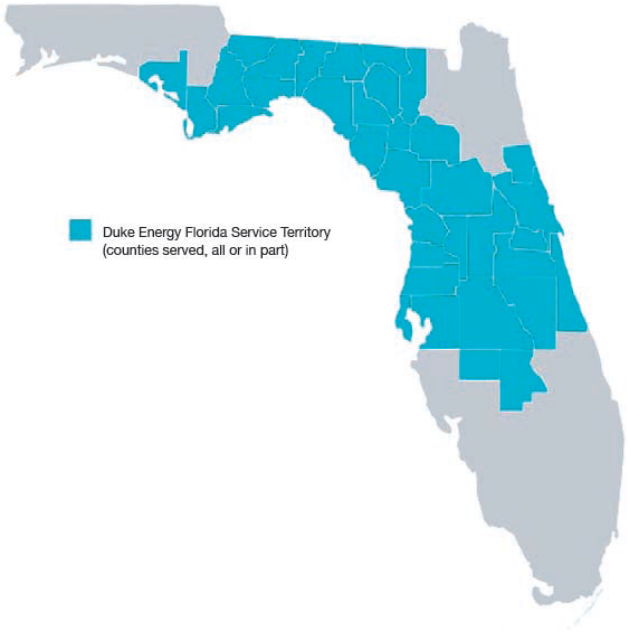
The suit claims DEF unlawfully charged customer higher rates to cover more than $1.2 billion in expenses at its Crystal River nuclear power plant and at its proposed (and now shelved) Levy County nuclear plant site. In addition to the suit seeking relief for nuclear recovery costs, it also seeks to nullify as unconstitutional the nuclear cost recovery system and all nuclear cost recovery orders issued by the FPSC, and it seeks an order enjoining defendants from further unlawful charges. The likelihood of the lawsuit prevailing is low considering other lawsuits challenging the constitutionality of Florida's nuclear cost recovery statute have been found to be without merit and rejected by Florida courts.

The Service Area

DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers. During the twelve

months ended December 31, 2015, DEF billed approximately 38.6 billion kilowatt hours of electricity to its covered electric customers in Florida, resulting in revenues of approximately $4.4 billion. Exhibit 4 below shows a map of DEF's service area.

Exhibit 4
Duke Energy Florida Service Area



Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Statutory Uncapped True-Up Adjustment Mechanism

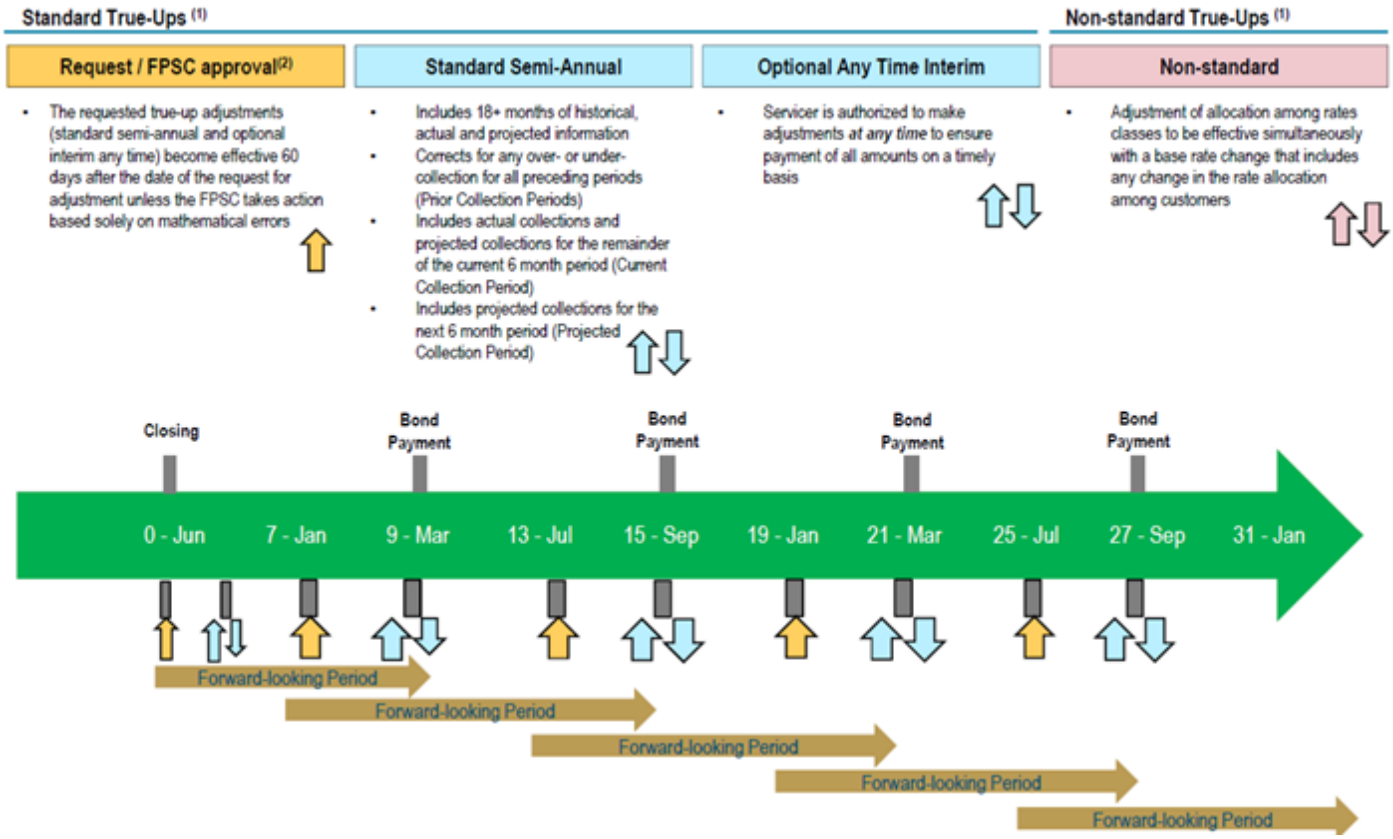
The securitization law and the financing order require that the issuer or DEF file with the FPSC at least semi-annually (and quarterly after the scheduled final payment date for the latest maturing bond) a letter applying the true-up mechanism to correct for any overcollection or undercollection of the nuclear asset-recovery charges and make any adjustments to ensure the recovery of revenues sufficient to provide for the timely payment of scheduled principal and interest on the bonds and other required amounts and charges. The FPSC's review of any adjustment request is limited solely to determining whether there is any mathematical error in the application of the formula-based mechanism.

Under the servicing agreement, the servicer will make adjustments to the nuclear asset-recovery charges at least semi-annually. In addition to the semi-annual true-up adjustment, the servicer is authorized to make interim adjustments at any time for any reason to ensure the timely payment on the bonds. In addition, the servicer will make a non-standard true-up adjustment to be effective simultaneously with a base rate change that includes any change in the rate allocation among customers used to determine the nuclear asset-recovery charges. Exhibit 5 below illustrates the true-up mechanism.

Under the irrevocable financing order, the FPSC guarantees it will act, as directed by the securitization law, to implement the true-up mechanism for making any adjustments that are necessary to correct for any overcollection or undercollection of the nuclear asset-recovery charges or to otherwise ensure the timely payment of principal of and interest on the bonds when due.

Exhibit 5

True-Up Mechanism



Source: DEF

Servicing

DEF will be the initial servicer of the bonds. DEF, as servicer, will be responsible for, among other things, calculating, billing, collecting and posting the nuclear asset-recovery charges from customers, submitting requests to the FPSC to adjust these charges, monitoring the collateral for the bonds and taking certain actions in the event of non-payment by a customer. The indenture trustee's receipt of collections in respect of the nuclear asset-recovery charges, which will be used to make payments on bonds, will depend in part on the skill and diligence of the servicer in performing these functions.

DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

DEF will be entitled to receive an annual servicing fee in an amount equal to 0.05% of the aggregate initial principal amount of the bonds. This servicing fee will be payable in equal installments on each semi-annual payment date, in arrears. If DEF or any of its affiliates is not the servicer, the successor servicing fee may be up to 0.60% of the initial principal amount of the bonds unless a higher fee is approved by the FPSC.

In the event of a servicer default, the indenture trustee, at the direction of a majority of bondholders or at the direction of the FPSC, may terminate the rights and obligations of the servicer under the servicing agreement. However, replacement of the servicer would require the agreement of the indenture trustee and the administrative agents under DEF's accounts receivable sale programs.

Credit, Billing and Budget Billing

DEF is required to provide transmission and distribution service to all qualified customers. First time customers establishing residential electric accounts are generally required to pay a deposit as are customers that do not satisfy threshold credit score requirements.

The amount of the deposit reflects the estimated use over a two-month period, which is the maximum DEF may collect by law. As a general rule, non-residential accounts require deposit coverage. Consumer credit is not used to determine credit worthiness on non-residential accounts.

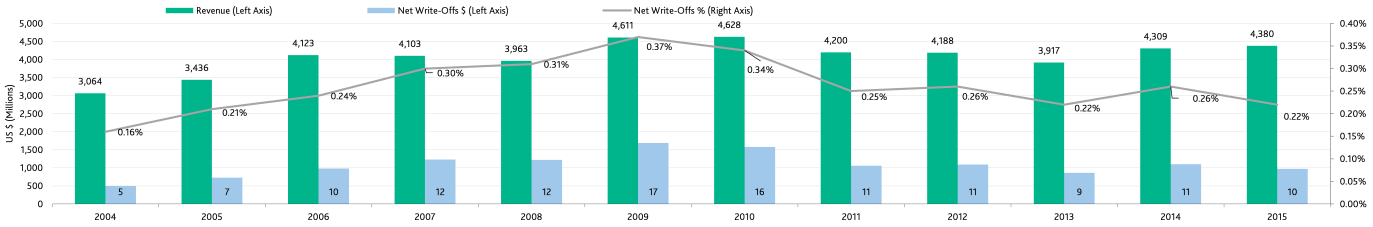
DEF bills its customers once every 24 to 39 days and distributes approximately 85,000 bills on each business day to its customers. Approximately 6% of DEF's residential customers choose to be billed using DEF's budget billing program. For these customers, DEF determines and bills a monthly budget based on the last twelve months of billing history for each account. Budget billing does not affect the amount of nuclear asset-recovery charges that the servicer remits to the indenture trustee on a daily basis.

Bills are due 21 calendar days after the issue date at which time they are considered delinquent. For the year ended December 31, 2015, approximately 6% of total billed retail revenue became eligible for disconnect and 1% was disconnected. Approximately 87% of accounts disconnected for nonpayment ultimately make full payment and have service restored. Unpaid final bills are written off approximately 30 days after the final bill is issued.

Exhibit 6 below shows net write-offs since 2004, which have ranged from a low of 16bps of billed revenue in 2004 to a crisis period peak of 37bps in 2009. DEF's forecast is 26 bps, consistent with the post-crisis performance history.

Exhibit 6

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: DEF

While more than 7.5% of customers are typically 30-59 days past due, by the third month most delinquencies are cured, with those still outstanding past 90 days well under 1% throughout the observation period. Exhibit 7 shows DEF customer delinquency data since 2005.

Exhibit 7

Delinquencies as a Percentage of Total Billed Revenues

	As of 2005	As of 2006	As of 2007	As of 2008	As of 2009	As of 2010	As of 2011	As of 2012	As of 2013	As of 2014	As of 2015
30-59 days	8.27%	8.51%	9.66%	8.41%	9.38%	7.82%	7.79%	7.59%	7.48%	7.79%	7.73%
60-89 days	0.92%	0.87%	1.12%	1.07%	0.78%	0.59%	0.57%	0.54%	0.59%	0.64%	0.57%
90+ days	0.52%	0.56%	0.90%	0.66%	0.51%	0.33%	0.22%	0.21%	0.28%	0.33%	0.33%
Total	9.71%	9.94%	11.68%	10.14%	10.67%	8.75%	8.58%	8.34%	8.35%	8.76%	8.63%

Source: DEF

Assets Analysis

Strong Service Area

This transaction benefits from the size and diversity of the ratepayer base within DEF's service area and the projected population growth and economic stability of the ratepayer base. During 2015, approximately 9% of DEF's total retail billed electric consumption was by industrial customers, approximately 31% was by commercial customers and approximately 52% was by residential customers, with other entities comprising approximately 8%. Exhibit 8 shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 8
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	57.91%	57.70%	56.85%	57.21%	56.94%	57.34%	59.72%	58.18%	56.96%	58.49%	58.85%	59.43%
Commercial	27.66%	27.57%	27.89%	28.06%	28.39%	28.46%	27.01%	28.10%	28.85%	28.11%	27.81%	27.51%
Industrial	7.65%	7.73%	7.98%	7.34%	7.31%	6.70%	6.14%	6.40%	6.53%	6.12%	6.10%	5.91%
Streetlighting	0.05%	0.05%	0.05%	0.05%	0.05%	0.05%	0.04%	0.04%	0.05%	0.04%	0.04%	0.04%
Public Authority	6.73%	6.95%	7.22%	7.34%	7.31%	7.44%	7.09%	7.28%	7.61%	7.24%	7.20%	7.11%

Source: DEF

For the year ended December 31, 2015, the ten largest retail electric customers represented approximately 8.3% of DEF's retail kilowatt-hour sales. There are no material concentrations in the residential class. As of the closing date, no customer or group of related commercial or industrial customers will be obligated to pay more than 10% of the nuclear asset-recovery charges.

Exhibit 9
Top 10 DEF Customers

	Industry	Energy Usage (MWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	Mining/Chemical Processing	691,591	1.79%	$46,289	1.06%
2	Education	456,852	1.18%	$37,972	0.87%
3	Retail Grocery	393,738	1.02%	$35,619	0.81%
4	Mining/Chemical Processing	340,470	0.88%	$23,343	0.53%
5	Education	252,072	0.65%	$27,720	0.63%
6	Retail Trade	250,016	0.65%	$24,409	0.56%
7	Stone/Clay/Glass	236,193	0.61%	$15,771	0.36%
8	Education	201,586	0.52%	$23,188	0.53%
9	Retail Grocery	199,997	0.52%	$19,744	0.45%
10	Government	175,246	0.45%	$16,124	0.37%
	Total	3,197,761	8.29%	$270,179	6.17%

Source: DEF

Remote Risk of Severe Ratepayer Base Declines

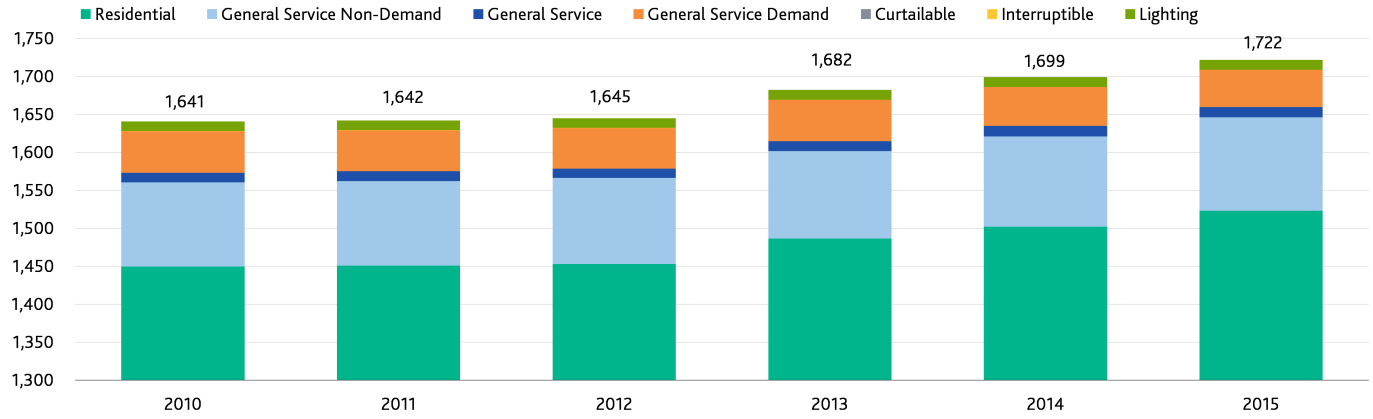
The ratepayer base is sensitive to many macroeconomic factors, including service area population and household formation growth, expected disconnects due to use of self-generation, changes in the service area and potential municipalizations. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Population Growth

Florida's robust population trend is a benefit to the transaction. According to the Census Bureau, the state's population grew an average of 1,000 residents per day in 2015. This 1.8% increase was the largest since 2006 and the strongest in the South. Despite the rapid rise, population growth will likely accelerate further because the pace remains historically weak. In the 50 years before the Great Recession, annual population growth in the state exceeded last year's pace by 47 times. Florida should also expect faster expansion because its cities appeal to Hispanics—the nation's fastest growing ethnic group—and retiring baby boomers— the fastest-growing age

group in the U.S. In 2015, for the third consecutive year, The Villages, Central Florida's retiree haven, was the nation's fastest growing metro area in population. Exhibit 10 shows that growth in the average number of DEF retail electric customers since 2010.

Exhibit 10
Average Number of Retail Electric Customers



Source: DEF

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of nuclear asset-recovery charges on other non-self-generating ratepayers. Based on existing legislation precluding the use of third-party owned solar equipment, DEF expects the estimated cost of self-generation for customers, combined with the practical obstacles to installing on-site generation, to limit self-generation from being installed by any meaningful number of customers within the service area. DEF forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The nuclear asset-recovery charge will be recoverable from all DEF customers taking transmission or distribution service from DEF. Thus, if the service area expands in the future, the new DEF customers would be subject to the nuclear asset-recovery charge on a going-forward basis. Pursuant to the financing order, any successor to DEF is required to perform all obligations and have the same rights under the financing order as DEF, including the collection of the nuclear asset-recovery charges from customers and payment of appropriate amounts to the issuer.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges and the likelihood that even after a municipalization, DEF's transmission and distribution services will continue to be used. While multiple municipal utilities exist in Florida, DEF is unaware of any municipality that has municipalized, or attempted to municipalize, a portion of an investor-owned utility's service territory in the absence of an agreement. One municipality, the City of Winter Park, was municipalized pursuant to such an agreement. DEF previously had a franchise agreement that provided Winter Park with a unilateral purchase option at the expiration of the franchise agreement. In the instance of the Winter Park municipalization, DEF sought affirmative permission from the FPSC to be relieved of its obligation to serve the City of Winter Park, which the FPSC subsequently approved. Any municipality using DEF's transmission and distribution system following a municipalization will be considered a successor and its customers will be subject to the nuclear asset-recovery charge.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact DEF's operations, temporarily interrupting transmission, distribution and consumption of

electricity, hence reducing the collections of nuclear asset-recovery charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the DEF service area, which could cause the per-kWh nuclear asset-recovery charge to be greater than expected.

The only year with any significant loss of energy consumption due to natural disasters was 2004, when a series of three Hurricanes struck the DEF service area. The impacts came from "Charley" (Aug 13-20), "Frances" (Sep 4-10) and "Jeanne" (Sep 25-30). Estimated lost energy sales came from studying reduced levels of daily system requirements totaling 400,000 MWh over these three disasters. This represents about 1% of the total annual electric usage for 2004 (38,193 GWh).

Forecasting Electricity Consumption

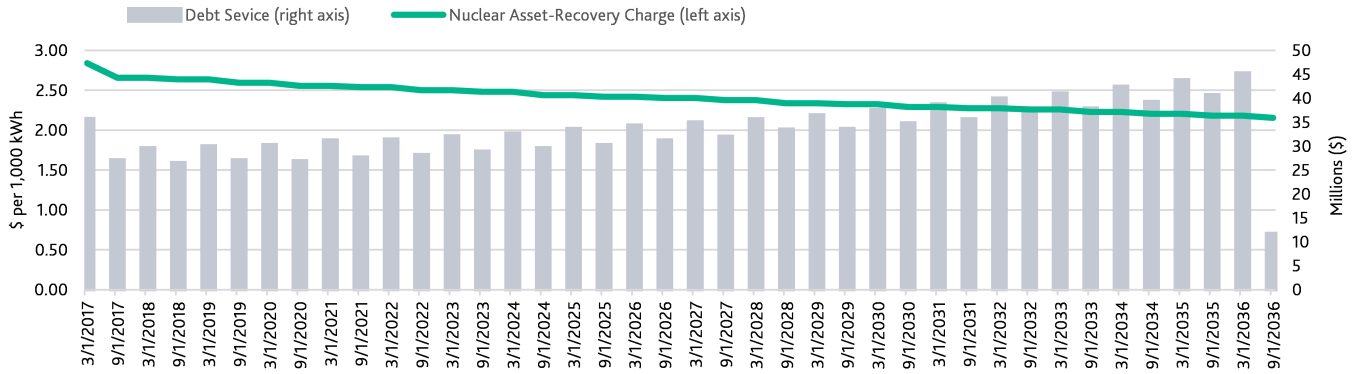
The nuclear asset-recovery charges are assessed based on forecasted customer usage. The amount and the rate of nuclear asset-recovery charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs. If the servicer inaccurately forecasts electricity consumption or underestimates customer delinquency or write-offs when setting or adjusting the nuclear asset-recovery charges, there could be a shortfall or material delay in nuclear asset-recovery charge collections prior to the next true-up.

The forecast utilized in the proposed bond structure is the 2016 Ten Year Site Plan filed with the FPSC in April 2016. Internal forecasts are updated at least twice per year but are not filed with the FPSC. The DEF forecast of customers, energy sales, and peak demand applies both an econometric and end-use methodology. External sources of data include economic series from Moody's Analytics and State population data from the University of Florida's Bureau of Economic & Business Research. Internal company forecasts are used for projections of electricity price, and weather conditions. The forecast incorporates population and household trends, employment and production trends, technology and energy efficiency trends, and weather and climate trends. DEF has a more granular forecast for the phosphate industry, at the customer level, due to the high concentration of customers in this industry among DEF's industrial customer base.

Exhibit 11 shows the forecasted nuclear asset-recovery charge per 1,000 kWh and scheduled debt service payments.

Exhibit 11

Nuclear Asset-Recovery Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: DEF; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Without an interim true-up adjustment, greater than 60% forecast variance would be needed leading up to any payment date to cause a payment default. Greater than 65% forecast variance would be needed in the first payment period to cause a payment default, assuming the servicer makes an interim true-up adjustment midway into the first payment period. By contrast the maximum forecast variance since 2011 has been less than 6%, as shown in Exhibit 12.

Exhibit 12
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	0.27%	-0.23%	-0.08%	2.14%	1.92%
Commercial	2.00%	0.82%	0.80%	1.40%	0.44%
Industrial	-3.09%	1.56%	-1.88%	3.87%	-3.25%
Public Authority	-2.40%	5.92%	0.50%	1.00%	-0.65%

Source: DEF

Cash Flow Analysis

We examined the cash flows that the nuclear asset-recovery charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the nuclear asset-recovery charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the nuclear asset-recovery charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the nuclear asset-recovery charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the nuclear asset-recovery charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the nuclear asset-recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Even in our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the nuclear asser-recovery charge is less than 7%.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the projections by DEF, which increases annually by a compounded 1 - 1.5%, through bond maturity
2. Implied net charge-offs of 0.2615%
3. Collection Curve projects 13.3% of collections within 30 days and 86.4% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains DEF or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case
4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year
5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

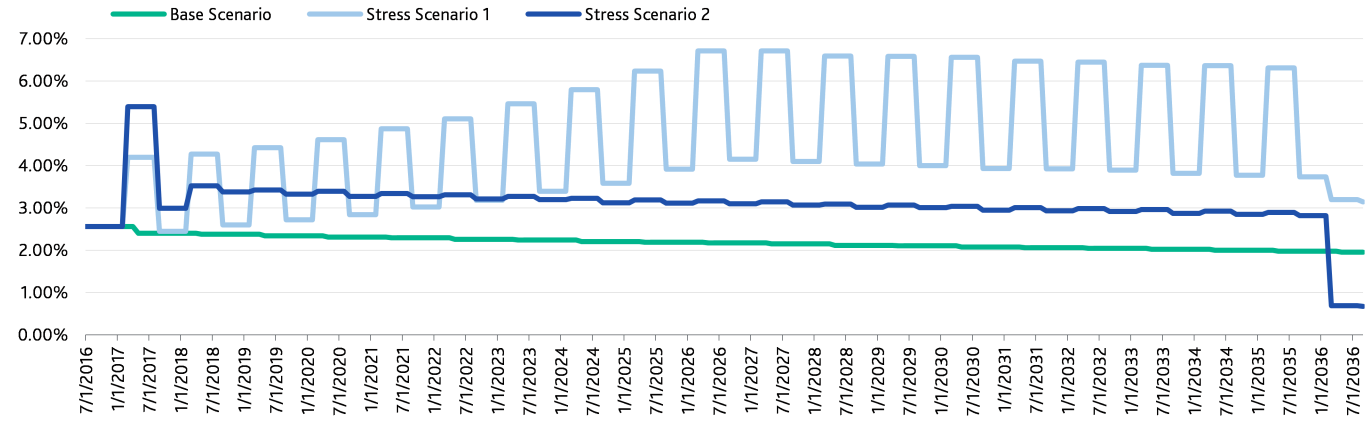
1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case
3. Collection curve is the same as in base case
4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 13 shows the projected nuclear asset-recovery charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 14 shows the projected nuclear asset-recovery charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 13

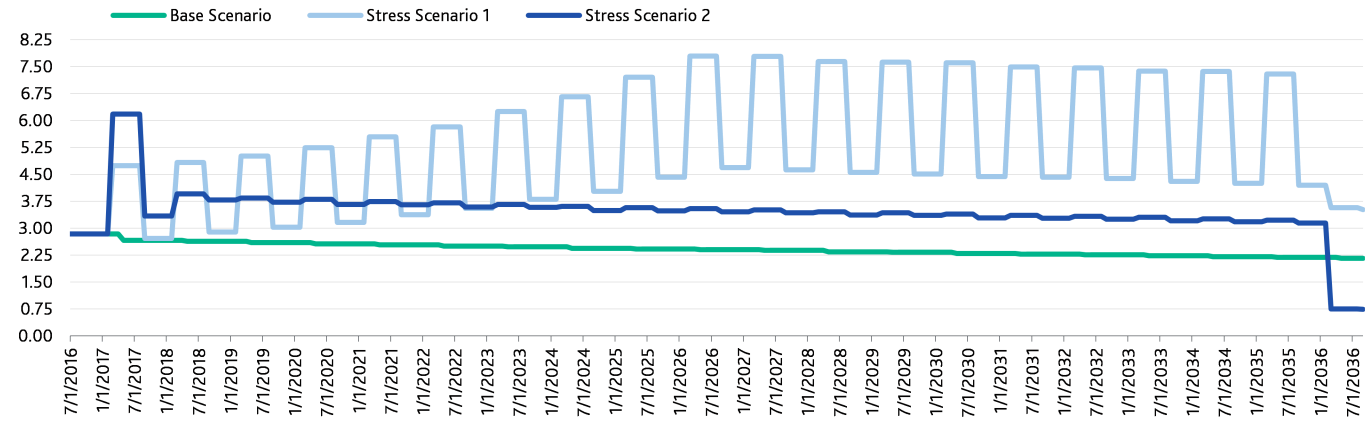
Nuclear Asset-Recovery Charge as a Percentage of a 1,000 kWh Customer's Total Bill



Source: DEF; Moody's calculations

Exhibit 14

Nuclear Asset-Recovery Charge ($ per 1,000 kWh)



Source: DEF; Moody's calculations

Comparables

As shown in Exhibit 15, stress scenario 1 is more stressful and results in a peak nuclear asset-recovery charge equal to about 6.94% of a 1,000 kWh per month customer's bill. This is low compared to other utility cost recovery deals.

Exhibit 15
Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2016A	7.21%	16.04%	10.40%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

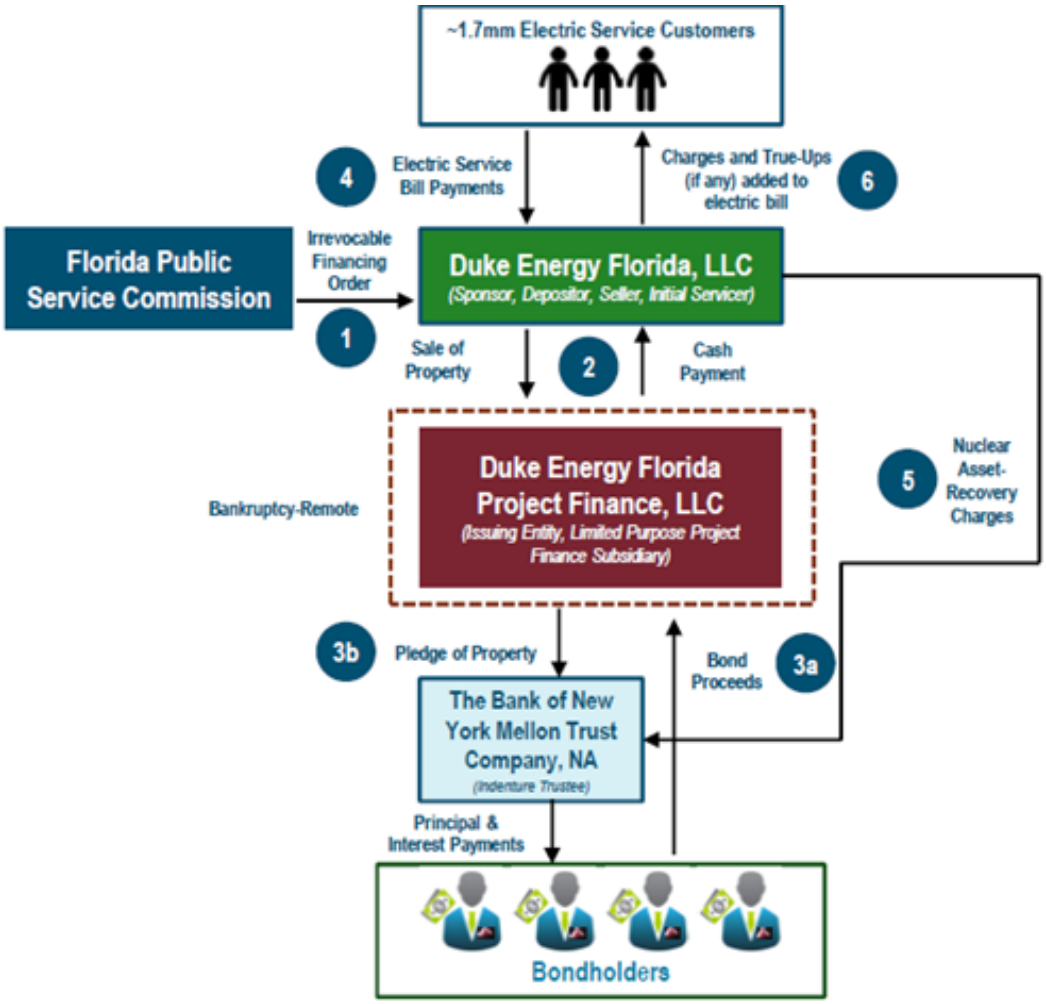
On the closing date, DEF will sell the nuclear asset-recovery property to the issuer pursuant to a sale agreement between the issuer and DEF. DEF will service the nuclear asset-recovery property pursuant to a servicing agreement between the issuer and DEF.

Securitization Structure Description

Structural Diagram

Exhibit 16 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 16
Structural Diagram



Source: DEF

1. FPSC issues financing order, permitted under state statute, that creates nuclear asset-recovery property in the hands of DEF
2. Via a true sale, DEF transfers the nuclear asset-recovery property to the issuer in exchange for cash payment
3. (a) Nuclear asset-recovery bonds issued in exchange for cash payment from bondholders (b) Nuclear asset-recovery property is pledged to indenture trustee for benefit of the bondholders
4. Electric utility customers pay charge on electricity bills on joint and several basis
5. Payments from electric utility customers used to pay principal and interest on the bonds
6. At least semi-annually, and, as frequently as monthly (any time), charge on all electricity customers adjusted to whatever level necessary (i.e., not subject to cap) to ensure timely principal and interest payments on the bonds

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the capital subaccount. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Capital Subaccount

On or before the date of issuance of the bonds, DEF will make a capital contribution to the issuer in an amount not less than 0.5% of the initial principal amount of the bonds, which will be deposited in the capital subaccount. Under the financing order, DEF will be entitled to a return on this capital contribution equal to the rate of interest on the latest maturing bond and payable according to the priority of payment set forth in the indenture and the series supplement.

Cash Commingling

The servicer is entitled to commingle the nuclear asset-recovery charges that it receives with its own funds until the funds are remitted to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from nuclear asset-recovery charges with other funds.

The servicer will remit nuclear asset-recovery charges based on estimated collections using a weighted average balance of days outstanding on DEF's retail bills. Nuclear asset-recovery charge collections remitted will represent the charges estimated to be received for any period based upon the average days outstanding and an estimated system-wide write-off percentage.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated nuclear asset-recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the indenture trustee within two business days.

Payment Priority

On each payment date, the indenture trustee will pay all amounts on deposit in the general subaccount of the collection account in the following order of priority:

1. payment of the indenture trustee's fees, expenses and outstanding indemnity amounts in an amount not to exceed annually $500,000 in the then current calendar year;
2. payment of the servicing fee plus any unpaid servicing fees from prior payment dates;
3. payment of the administration fee to the extent due on that payment date and of the fees of our independent manager plus any unpaid administration or management fees from prior payment dates;

4. payment of all of our other ordinary periodic operating expenses;
5. payment of the interest then due, including any past-due interest;
6. payment of the principal required to be paid on the final maturity date for each series or as a result of acceleration upon an event of default;
7. payment of the principal then scheduled to be paid in accordance with the expected sinking fund schedule, including any previously unpaid scheduled principal, paid pro rata among the bonds if there is a deficiency;
8. payment of any of our remaining unpaid operating expenses and any remaining amounts owed pursuant to the basic documents;
9. replenishment of any amounts drawn from the capital subaccount;
10. release to DEF of an amount equal to the rate of return on the amount contributed to the capital subaccount, including any portion of such rate of return for any prior payment date that has not yet been paid, so long as no event of default has occurred and is continuing; and
11. allocation of the remainder collected, if any, to the excess funds subaccount for future payments.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. a default for five business days in the payment when due of any interest on any bond;
2. a default in the payment of the then unpaid principal with respect to any series on the final maturity date for that series;
3. a default in the observance or performance of any covenants or agreements made by the issuer in the indenture or the series supplement (other than defaults described above) which continues for 30 days;
4. any representation or warranty made by the issuer having been incorrect in any material respect as of the time made, and such breach not having been cured within 30 days;
5. certain events of bankruptcy, insolvency, receivership or liquidation with respect to the issuer; or
6. a breach by the State of Florida or any of its agencies (including the FPSC), officers or employees that violates the pledge of the State of Florida.

Issuance of Additional Bonds

As authorized by the financing order, the issuer's organizational documents and the transaction documents give the issuer authority and flexibility to issue additional nuclear asset-recovery bonds in future transactions, with the approval of the FPSC. Each series of nuclear asset-recovery bonds that may be issued will be backed by separate nuclear asset-recovery property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of nuclear asset-recovery bonds. However, the issuer may not issue additional nuclear asset-recovery bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of nuclear asset-recovery property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the nuclear asset-recovery property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The issuer's limited liability company agreement requires that it have at least one independent manager, whose selection and replacement will be subject to ratification by the FPSC. The limited liability company agreement does not permit the issuer to engage in any activities not directly related to purchasing and owning the nuclear asset-recovery property and issuing one or more series of nuclear asset-recovery bonds. The list of permitted activities set forth in the limited liability company agreement may not be altered,

amended or repealed without the affirmative vote of a majority of the managers, which vote must include the affirmative vote of the independent manager.

Sponsor and Seller

DEF is the sponsor of the transaction and the seller of the nuclear asset-recovery property. DEF, a Florida limited liability company, is a regulated public utility primarily engaged in the generation, transmission, distribution, and sale of electricity in portions of Florida. DEF is an indirect, wholly-owned subsidiary of Duke Energy Corporation, one of the largest regulated utility holding company in the US.

DEF is subject to the jurisdiction of the Florida Commission with respect to retail utility rates, accounting, utility services, certain facilities, certain asset transfers, certain corporate mergers and other matters. DEF is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act with respect to acquisitions, operations and disposals of certain assets and facilities, services provided and rates charged, conduct among affiliates and other matters, and its nuclear power plant is also subject to the jurisdiction of the Nuclear Regulatory Commission.

Administrator

DEF will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. DEF, as administrator, will be entitled to receive an annual administration fee of $50,000 payable annually, in arrears. The administrator may not resign or be removed without satisfaction of the rating agency condition.

Securitization Structure Analysis

The Series A bonds are a relatively simple sequential structure without subordination and the capital subaccount provides sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of DEF (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating

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REPORT NUMBER 1031259

MOODY'S
INVESTORS SERVICE

Standard & Poor's Reviews, Affirms, 68 Classes From 31 Stranded Cost Transactions

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OVERVIEW

- We affirmed our ratings on 68 classes from 31 stranded cost securitizations.
- All of the transactions are backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts supporting our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations.

NEW YORK (Standard & Poor's) Feb. 25, 2013--Standard & Poor's Ratings Services today affirmed its ratings on 68 classes from 31 stranded cost securitizations (see list).

The affirmations reflect the transactions' ongoing stable performance and their continued ability to pay interest and principal in a manner commensurate with an 'AAA (sf)' rating stress, in our view.

Stranded cost securitizations are typically backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts. As currently constructed, the enhancement supports our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations. These securities traditionally have been created under state legislation in conjunction with the state utility commission, with the utility as the

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seller/servicer of the assets. Key features of the deals include:

- There are irrevocable statutory provisions and regulatory approvals, including the creation of mandatory periodic true-up of a nonbypassable transition charge and an absolute transfer and first-priority security interest in transition property;
- The true-up mechanisms are in place to ensure the transition charge can be adjusted to reflect any deficit in collections, as well as any other credit enhancement accounts; and
- There are typically cross-collateralization features such that all the customer classes help pay down the bonds. There may be certain deals that have rate caps and/or do not allow cross-collateralization.

For more information on legal and economic defeasance, please see "Securitizing Stranded Costs," published Jan. 18, 2001 on RatingsDirect.

As part of our regular surveillance, we reviewed and affirmed 68 classes from 31 stranded cost transactions.

Standard & Poor's will continue to monitor the securitizations and take rating actions as we deem necessary according to our criteria.

STANDARD & POOR'S 17G-7 DISCLOSURE REPORT

SEC Rule 17g-7 requires an NRSRO, for any report accompanying a credit rating relating to an asset-backed security as defined in the Rule, to include a description of the representations, warranties and enforcement mechanisms available to investors and a description of how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. The Rule applies to in-scope securities initially rated (including preliminary ratings) on or after Sept. 26, 2011.

If applicable, the Standard & Poor's 17g-7 Disclosure Report included in this credit rating report is available at http://standardandpoorsdisclosure-17g7.com

RELATED CRITERIA AND RESEARCH

- Standard & Poor's To Explicitly Recognize Credit Stability As An Important Rating Factor, Oct. 15, 2008
- Principles-Based Rating Methodology for Global Structured Finance Securities, May 29, 2007
- Legal Criteria For U.S. Structured Finance Transactions: Special-Purpose Entities, Oct. 1, 2006
- Securitizing Stranded Costs, Jan. 18, 2001

RATINGS AFFIRMED

AEP Texas Central Transition Funding II LLC
A
Rating

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A2	AAA (sf)
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

AEP Texas Central Transition Funding LLC
2002-1

	Rating
A-4	AAA (sf)
A-5	AAA (sf)

Atlantic City Electric Transition Funding LLC
2002-1

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Atlantic City Electric Transition Funding LLC
2003-1

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Centerpoint Energy Restoration Bond Company, LLC

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

CenterPoint Energy Transition Bond Company II LLC
A

	Rating
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

CenterPoint Energy Transition Bond Company LLC
2001-1

	Rating
A4	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

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Consumers Funding LLC
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Detroit Edison Securitization Funding LLC (The)
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Entergy Gulf States Reconstruction Funding I LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Entergy Texas Restoration Funding, LLC
Senior Secured Transition

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

FPL Recovery Funding LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding II LLC
2006-A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding LLC
2002-A

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Louisiana Public Facilities Authority-EGSL
2008

	Rating
A-1	AAA (sf)

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A-2	AAA (sf)
A-3	AAA (sf)

Louisiana Public Facilities Authority-ELL
2008

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Massachusetts RRB Special Purpose Trust 2005-1
2005-1

	Rating
A-4 BEC	AAA (sf)
A-4	AAA (sf)
A-4 CEC	AAA (sf)

Massachusetts RRB Special Purpose Trust WMECO-1

	Rating
A	AAA (sf)

MP Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

MP Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PE Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

PE Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PSE&G Transition Funding II LLC
2005-1

	Rating
A-3	AAA (sf)

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A-4	AAA (sf)

PSE&G Transition Funding LLC
2001-1

	Rating
A-6	AAA (sf)
A-7	AAA (sf)
A-8	AAA (sf)

PSNH Funding LLC
2001-1

	Rating
A-3	AAA (sf)

Rockland Electric Company Transition Funding LLC
2004-1

	Rating
2004-1	AAA (sf)

RSB BondCo LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2003-1

	Rating
A-4	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2004-1

	Rating
A-3	AAA (sf)

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Securitizing Stranded Costs

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Table Of Contents

Business and Legal Overview

Overview of Stranded Cost Securitization

The Rating Approach

Related Criteria

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Criteria | Structured Finance | ABS:

Securitizing Stranded Costs

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Electric utilities historically have enjoyed protected monopolistic status, in return for an obligation to provide service to the customer base whenever requested. In return, utilities have made significant long-term investments and entered into long-term power purchase contracts with the expectation that these would be recoverable through customer rates. In 1992, the enactment of the National Energy Policy Act introduced wholesale electric competition into the industry. Since then, almost half the states have taken steps toward a competitive retail market by legislating or ordering frameworks for "retail access," through which all customers will be able to choose their own electric generation supplier. With a competitive market taking shape, many utilities have found themselves saddled with significant unrecoverable contractual and sunk costs, generically known as stranded costs. These stranded costs are not new, but rather have already been approved by regulators and are incorporated in existing utility rates as part of traditional cost-plus regulation. If utilities are to compete in a deregulated market, however, they cannot pass these stranded costs along to customers. In many cases, the inability of a utility to recover a significant portion of these costs would result in significant financial deterioration, and in the worst cases, insolvency.

As noted, many legislatures and state regulatory commissions have established the means by which utilities can avert financial deterioration while also providing customers with lower rates. Asset-backed securitization is one such alternative. In several states, such as California, Pennsylvania, Massachusetts, Texas, New Jersey, Michigan, New Hampshire, Connecticut and Illinois, legislatures have enacted laws that enable utilities to finance the recover-y of at least a portion of their stranded costs by issuing bonds backed by a statutory right to recover stranded costs.

In December 1997, the three California investor-owned utilities: Pacific Gas & Electric Co., Southern California Edison Co., and San Diego Gas & Electric Co., securitized more than $6 billion of their approximately $28 billion of total stranded investment. During 1998, Illinois Power Co. securitized $864 million followed by Commonwealth Edison Co.'s $34 billion securitization transaction. In 1999, one Massachusetts utility and three Pennsylvania utilities completed securitization transactions. Boston Edison Company issued $725 million of rate reduction certificates. PECO Energy Co. issued $4 billion, PP & L Inc. issued $2.42 billion and West Penn Power Company issued $600 million of transaction bonds. In 2000, PECO issued an additional $1 billion and in 2001, utilities in New Jersey, Connecticut, Michigan, and Texas may come to market with rate reduction bonds.

Utilities in states that have not yet addressed industry restructuring through legislative action or regulatory order, such as Indiana, Kentucky, Florida, and North Carolina, are generally low-cost producers with limited, if any, stranded assets. These states are much less motivated, therefore, to pursue industry restructuring, let alone securitization, at the present time. Whether or not these states ultimately pass relevant legislation, however, the relative competitive standing of their utilities will inevitably be diluted as high-cost utilities in other states shed a substantial portion of their high-cost assets through securitization.

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Standard & Poor's believes that securitization of stranded costs is at least neutral, and generally positive for utility credit quality. The utility acquires cash up front, instead of receiving an increasingly at-risk revenue stream over time. Proceeds of the securitization are expected to be used principally to shrink a utility's total capitalization structure, including retiring debt that carries a higher coupon than that borne by the highly rated securitized bonds. In most cases, these interest savings are passed along directly to customers in the form of lower rates. Generally, the amount of rate reduction bonds that the utilities issued was designed specifically to generate a legislatively mandated rate reduction for customers.

Business and Legal Overview

What Are Stranded Costs?

Stranded costs are broadly defined to include any costs that were incorporated in the traditional regulatory cost-plus scheme that cannot be passed on to customers in a competitive marketplace. The most significant of these stranded costs are investments in high-cost nuclear and fossil plants. They also include deferred and capitalized operating costs, conservation and economic development expenditures, nuclear decommissioning costs, and long-term contractual obligations with high cost nonutility generators.

In the past, utilities constructed large, centrally located plants to gain economies of scale in producing electricity. Extremely long construction lead times and overly aggressive demand forecasts caused management to err on the side of oversupply to meet customer demand. Furthermore, the monopoly environment meant utilities lacked a strong incentive to contain costs. Indeed, the larger a utility's rate base was, the more investment on which the utility could earn a return. In addition, costs were exacerbated by circumstances. The last round of base-load construction occurred in the late 1970s and early 1980s, which was an era of high inflation and high interest rates. Finally, the nuclear incident at Three Mile Island in 1979 resulted in heightened Nuclear Regulatory Commission supervision, extending the timetable for plant completions and elevating capital costs significantly.

Since that time, new technologies have greatly reduced the cost of building generating facilities. Even more importantly, the economics of building smaller plants have continued to advance. The lead time for construction has been drastically reduced, from as much as 10 years to as little as 18 months. This reduction is in part due to the construction of much smaller-scale highly efficient plants. As a result, the cost of incremental generation today is significantly lower than the embedded cost of plant of most utilities. The differential is most evident in nuclear plants. For instance, the 1,143 megawatt (MW) Nine Mile Point 2 nuclear plant, operated by Niagara Mohawk Power, was completed in 1988 at a cost of about $5,000 per kilowatt (kW), after a construction period of more than 10 years. This compares with a 500 MW gas-fired combined-cycle plant today that can be built in about 18 months at a cost of $450 to $550 per kW. While prudency hearings did lead to significant write-offs during the rate base proceedings of Nine Mile Point 2, the bulk of these costs were simply included in rates and are now being recovered from customers over a lengthy period of time.

Developments in Industry Environment

The enactment of the National Energy Policy Act of 1992 (NEPA) marks the beginning of the end of the last major government-protected monopoly. NEPA authorized the Federal Energy Regulatory Commission (FERC) to mandate

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that utilities become open-access common carriers for wholesale electric sales, known as wholesale wheeling. Wholesale sales are bulk power sales between utilities or between a utility and a third-party producer. If two utilities are not interconnected, they would need access to a third party's transmission network to complete such a transaction.

The ability of a utility to sell power to an end user that is not within its franchise service territory, or the sale of power from an independent power producer to an end user, is called "retail wheeling." Currently, utilities are not permitted to engage in retail wheeling. However, retail customers, aware that there may be cheaper power sources than their current supplier, are pressuring state regulators to permit them to buy power from alternative suppliers. While most regulators agree that competition will lower the price of power, some assert that the objective is not merely to lower rates, but to provide customers with the option to choose their power provider. The vast majority of utilities and regulators concur that retail wheeling is inevitable, so states have had to grapple with how to make the transition from a regulated to a competitive environment. As mentioned earlier, many states have passed laws to phase in direct access to all customers and most of these legislative initiatives include securitization of stranded costs as a means of reducing utilities' financial exposure to a competitive retail environment.

Recovery of Stranded Costs

Vertically integrated electric utilities provide customers with three basic functions: generation, transmission, and distribution. Because of legal, regulatory, and technological advances, generation no longer displays monopoly characteristics. Transmission and distribution, or the "wires" function, on the other hand, will likely remain natural monopolies for the foreseeable future since it would be prohibitively expensive, and environmentally difficult, to construct redundant wires. Transmission consists of the high-voltage system that moves power in bulk from generating plants to an electric distribution system or a load center. Distribution receives stepped-down power, which is then transported at lower voltages to individual end users.

As part of various state legislative initiatives, utilities are being required to functionally, if not legally, disaggregate the vertically integrated components of their business. The costs of each function will be determined and itemized, or "unbundled," on customers' bills. While customers may purchase the actual electrons from a source other than their local utility, they must continue to transport this power over the distribution wires owned by their local utility. The local utility will use its wires system to charge customers for the services it provides, which will include transmission of power bought from other suppliers. Other services, such as billing and metering, could be maintained by the utility or could be opened to competition as well. Any stranded cost that is identified, isolated, and by mandate recoverable in utility rates, will also be recovered as a "wires charge;" it cannot be recovered as part of a generation charge, since customers may purchase generation from an alternative source.

Stranded costs, which have been realized as such only with the prospect of a competitive market, are included in current utility rates, but they are being amortized over as long a period as 30 to 40 years. Utilities need to accelerate the recovery of these above-market costs as quickly as possible if they are to lower their rates in preparation for a competitive environment.

Statutory Securitization of Stranded Costs

Until now, securitization of stranded assets has been made possible by state statute. In general, such statutes provide that the stranded assets themselves, plus interest on any bonds backed by stranded assets, the costs of servicing the

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bonds, and the costs of bond issuance all be collected through imposition of a tariff that is collectible from the utility's customers. While differing in particulars, the legislation in Pennsylvania, California, Illinois, Massachusetts, Texas, Connecticut, New Jersey, and elsewhere shares certain characteristics that are significant from a rating perspective.

The statutes specifically provide for securitization of the stranded costs through their sale to a financing subsidiary, and ultimately, to a trust that issues the bonds. The statutes award true sale status to the transfer of the stranded assets to a finance subsidiary. This should help support the legal conclusion that the transfer constitutes a true sale for bankruptcy purposes.

The statutes also provide that any proposal for a securitization of stranded assets be approved on an irrevocable basis by the relevant utility regulatory commission. The commission must set a tariff schedule. A tariff would be included in the ordinary bills sent to customers, and would amortize the stranded assets over the life of the proposed securitization. The tariff would be a separate itemized charge on the customer's bill, and could be either a fixed charge or tied to electricity usage, in either case included in the utility's wires charge. In scheduling the tariff needed to amortize the assets fully, the commission will take into account the utility's forecast regarding the projected size and demographics of its customer base. Where the tariff is tied to electricity usage, predicted customer usage will be important.

The tariffs that are actually collected from customers may fall short of what was originally anticipated. In addition to defaults in bill payments, the customer base might decline due to economic and/or technological factors, or usage might vary from what was originally predicted. This might happen, for instance, if the winter is unusually warm or the summer particularly cool. These are credit risks that could impact the ability of the tariff to amortize the assets fully. To address these risks, the legislatures have created a statutory form of credit support, known as the "true-up" mechanism. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers, so that the bond amortization schedule is met. This minimizes credit risk, except in the tail end of the transaction after the final true-up has occurred. Liquidity risk will, of course, exist during the periods between true-ups, to the extent that collection shortfalls occur.

The true-up mechanism also may effectively minimize prepayment risk. While there may be a tariff collection shortfall, it is also conceivable that excess collections may be received. This might occur, for example, if the customer base grows at a greater rate than originally anticipated when the tariffs were established. If collections exceed expectations for a particular period, the true-up mechanism could potentially reduce the remaining tariffs accordingly, so that the remaining transaction amortizes as scheduled.

When the utility applies for a true-up, the commission may not grant it immediately. The commission's delay will add to liquidity risk, because the shortfalls in collections to be remedied by the true-up will last for a longer period, until the commission finally grants the true-up. A delay by the commission will not create credit risk during the transaction, because once the true-up is in place, the adjusted tariff will take into account any collection shortfalls caused by its delay. But a delay in the true-up could result in a credit loss at the tail end of the transaction. The commission might take so long to grant the true-up that the final true-up never occurs. The statutes prevent this potential credit loss, as well as limit liquidity risk caused by a delay, by setting a deadline for implementation of the true-up. For example, California requires that the commission implement a true-up within 90 days of each anniversary date of the

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transaction. Other statutes simply require that the true-up filing with the commission becomes effective as early as the subsequent month.

The duration of these transactions and the ability to impose true-up periods and tariff collections indefinitely depend initially on whether the statutes impose a limit on how long the tariff may be collected from the utility's customers. Even where no limit is set as a statutory matter, the final true-up period, and the deadline for tariff collection, will depend on the legal final maturity date set for the bonds.

A utility might change hands for some reason, or file under Chapter 11 of the U.S. Bankruptcy Code. Such an event could strike at the heart of a potential securitization. Stranded assets will not be recovered unless the utility continues to provide electricity, bill its customers, transfer the tariff to the securitization trust, and apply for true-ups when necessary. The statutes address this problem by requiring that any successors to the utility, whether through bankruptcy, merger, or sale, must perform all of the utility's obligations in connection with the securitization.

The statutes provide another feature, by providing that, contrary to what would usually occur under the Uniform Commercial Code (UCC), there is a continued security interest in collections that have been commingled with other funds of the utility. This eliminates the usual credit risk associated with commingled funds in the event of a bankruptcy of the utility, although it fails to alleviate the liquidity risk and potential credit risk caused by the automatic stay (see Protection Against Credit Risk Caused By Commingling).

Finally, the statutes purport to create new property interests that must be perfected in a manner different from a UCC security interest. However, there is the possibility that stranded assets might still be considered subject to the prior lien of existing mortgage bonds. As a result, proceeds of the securitization might need to be applied to pay down the debt secured by the prior lien. This would, in any event, be positive from a credit perspective, because the bonds being retired (typically general obligation bonds bearing the rating of the utility) would have a higher interest rate than the 'AAA' rated securitized bonds used to retire the obligations.

Significance of Statutory Securitization

To date, stranded cost securitizations rated by Standard & Poor's have been based on legislation promulgated specifically for that purpose. Nevertheless, Standard & Poor's understands that, as a regulatory matter, state public utility commissions have, de facto, historically permitted recovery of stranded costs through rate adjustment.

While public utility commission regulatory action may well be sufficient to accomplish a securitized recovery of stranded costs, Standard & Poor's believes that there may be certain advantages to a legislation-backed securitization. Statutes have the benefit of having undergone the political process. Affected interests are given the opportunity to introduce, and argue for, their respective views. Hearings, drafting and amendments, floor debate, and overall legislative, and press and public scrutiny is the process by which political compromise is achieved and consensus built. The political process is viewed as investing the resulting legislation with a considerable degree of stability and support.

Viewed from the perspective of legal capacity, legislation has other advantages. At the heart of stranded cost securitization is the creation of a property right in the transition charges that serve as the basis for debt service. While it is clear that state legislatures are empowered by due process of law to create property rights, and to define and record how these rights are to be enjoyed, the ability of a state public utility commission to achieve the same end by

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regulatory compact may not be as certain.

Statutory status provides both constitutional and political protection against the risk that the creation and pledge of securitization property might be impaired by subsequent amendment. Historical precedent indicates that a legislature is unlikely to reverse itself once it has enacted a statute. Even if a political reversal were to occur, the Pennsylvania, Massachusetts and California statutes recognize that the bondholders possess certain constitutionally protected rights. Both statutes provide that if the right to recover stranded assets is compromised in any way, the bondholders are entitled to adequate compensation.

Nevertheless, in jurisdictions where public utility commissions may reasonably be viewed to have the capacity and authorization to order a recovery of stranded costs through a securitization-type procedure, and in which the commission has a stable history of consistent regulatory action, and in which the courts have paid regular deference to commission order, Standard & Poor's will consider regulatory-based recovery procedures case by case. However, any such consideration will necessarily involve a comparison by Standard & Poor's of the proposed regulating action and its enactment in contrast to rated, statute-based recovery plans.

Overview of Stranded Cost Securitization

Differences From Traditional Asset-Backed Transactions

Several key aspects differentiate the securitization of stranded costs from the securitization of more conventional asset types.

Cash Flow Receivables In a typical securitization, the originator of the assets transfers a pool of receivables to a trust and receives payment based on an agreed-upon value for those receivables. The key in this case is that the receivables have already been created. In contrast, stranded assets are not traditional receivables. Although the statutes create a present property right to future collection there is no initial cash flow backing the debt. Stranded assets represent the present right to the cash flow from receivables that will be created in the future when performance, in this case power generation and delivery, has been provided. But until this performance by the utility company takes place, the customer is not obligated to make any payments. Power generation is thus critical to assure full and timely payment to securityholders. As a result, there is a greater dependence on the utility as seller/servicer to do more than just collect payments on existing receivables and liquidate collateral to the extent needed.

Dependence on Servicer Servicer bankruptcy filings generally cause a change in servicer in most asset-backed transactions to prevent any disruptions in the required servicing and collections on the portfolio. Therefore, a substitute servicer must be ready and willing to take over all servicing responsibilities, if necessary. But unlike in typical securitizations, the transaction cannot fully rely on a substitute servicer. A utility does not just collect payments; it must continue to provide power. Because provision of electricity is fundamentally a necessary service, however, Chapter 7 liquidations are unlikely. In contrast, utilities will continue to operate in Chapter 11 reorganization, and thus, provide power and enforce collection from customers. Security is provided by the statutory mandate that collection obligations must be assumed by any successor corporation, including successors pursuant to reorganization, or otherwise. Due to the regulated nature of the industry a state-by-state review of successor servicing arrangements will be performed by Standard & Poor's.

True-up as Credit Support Credit support is entirely structured within the finances of the typical securitization. In contrast, in these transactions credit support has been provided by the statutory true-up mechanism. The parties must initially come up with a proposed amortization schedule. This schedule determines the tariff to be charged to recover

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the stranded costs, as well as the costs of the securitization itself. In setting this tariff schedule, the utility makes certain assumptions about charge-offs and sales over the following year or even decade. These assumptions will necessarily be inaccurate, especially as the date of forecast becomes increasingly remote. As a result, the stranded costs collected from customers could be less than those needed to repay the bonds. The true-up addresses this risk. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers. This effectively eliminates credit risk, except in the tail end of the transaction after the final true-up has occurred.

It should be understood that the true-up is not quite the same thing as an unlimited cash collateral account. Because the true-up will only be as good as collections in the following year, the amount of a current year's shortfall will not be fully recovered in the next year, due to charge-offs and forecast error occurring in that year. The amount will decrease over time, however, as successive true-ups are implemented. Where statutes do not place a limit on the tenor of the bonds and permit indefinite true-ups, the legal final maturity can simply be extended as a structural matter to gain the benefit of additional true-ups. This allows for as many true-ups as necessary to reduce the shortfalls that cannot be collected because they occur in what may have been originally contemplated as the final year of the transaction.

The true-up can make the amortization schedule for the bonds more predictable, unless dramatic consumption changes occur. This is because the true-up may adjust the amount payable to the trust by the customer base to the extent that there has been a shortfall or surplus in the prior period.

Perfection Mechanisms As stated above, the statutes provide for their own methods and location for filing and perfecting stranded assets. This may or may not result in the conclusion that stranded assets are new property interests not subject to UCC filing and priority rules, and thus are not subject to prior liens under the UCC.

Overcollateralization as Additional Credit Enhancement As mentioned earlier, the true-up mechanism will play an integral role in the transaction structure. The frequency of the true-up, for example, will influence the need for additional credit enhancement. Overcollateralization is the most likely form of credit support. Overcollateralization would cover the risks in the stub period following the final true-up, as well as make up for past shortfalls in collections that were never fully trued-up in the past.

Sale Accounting and FAS 125 Stranded cost securitizations do not possess sale status as an accounting matter under FAS 125. The Security Exchange Commission's Office of Chief Accountant has indicated that while the utilities may be able to sell the right to recover stranded costs as a legal matter, they will not be able to remove the assets (and associated debt) from their balance sheets under FAS 125. Nevertheless, as long as the transaction is structured as a true sale for legal purposes, Standard & Poor's will "back out" for analytical purposes nonrecourse debt and associated carrying costs from the utility's consolidated financial statements. While off-balance-sheet treatment would have enabled a more clear-cut analysis, Standard & Poor's will attempt to recognize the economic (as opposed to the accounting) reality.

Debt for Tax Treatment Any utility intending to securitize stranded costs will likely seek a private letter ruling from the IRS that states that the sale of the assets constitutes a "debt for tax transaction." In other words, the sale would not result in the immediate recognition of income. If the sale were deemed to provide immediate income, the utility would incur an immediate tax liability as well. This would destroy the economics of a securitization.

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The Rating Approach

Specific credit and legal risks that arise in securitizing stranded costs are addressed below. Standard & Poor's pursues a general rating methodology that attempts to stress in cash flows the ability of the true-up mechanism to ensure timely payment of interest and repayment of principal. In addition, it attempts to determine the number of true ups needed to meet these payments, that is, the structure's ability to meet its legal final maturity.

Credit Risks

Inaccuracy in Forecasting As mentioned earlier, the funds necessary to pay the stranded assets of the issuer are dependent on the tariff set by the commission and collected from the utility's customers. Tariff schedules are compiled for each customer class so that, taken together, the tariffs charged will amortize the stranded assets over the life of the securitization, while making timely interest payments. The tariff amounts themselves are based on estimates of cash flows to be collected from the customer base. The tariff amounts are thus determined based on such factors as the utility's forecast of population growth or decline, and seasonality in expected usage.

A shortfall in tariff collections can be caused by lower than expected usage due to:

Unanticipated customer migration (anticipated migration is included in the forecasting). Residential and small business customers are considered low risk in terms of customer migration. Large industrial customers, on the other hand, are considered a significant risk that requires additional stress to the cash flows (see Cash Flows). Additionally, as the term of transition bond issued exceeds the 6-8 years historically seen, technology driven customer migration increases significantly and begins to impact usage from commercial and small business customers.

Unanticipated weather conditions. Seasonal weather fluctuations are studied, and typically accounted for in setting the tariff charge.

Forecast error negatively impacts liquidity on the bonds and may "push out" the maturity of the bonds by requiring additional true-ups before the bonds can be paid out. To capture this risk, historical forecasting error is stressed at a certain multiple depending on the rating sought.

Where the tariff is recoverable from large industrial and commercial customers, Standard & Poor's will require data stratifying these customers by revenues generated. The cash flows will be additionally stressed to account for a potential loss in revenues caused by relocation of those customers with a high concentration risk in revenue generation for the utility.

Certain states have legislated rate caps on either the transaction charge for specific customer classes or on the total customer charge (i.e. through mandated rate reductions). Standard & Poor's will review the cash flow models to confirm that these rate caps are respected in stress scenarios.

Higher-Than-Expected Charge-Off Experience Like other forecasting variables, anticipated charge-offs are included in forecasting for purposes of setting the tariffs. Charge-offs may be higher than expected based on historical experience due to a variety of factors, including economic changes and unforeseen disasters. To account for this risk, charge-off history is stressed by the multiple relevant to the rating sought.

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Commingling by Aggregators The recent mandated unbundling of generation, transmission, and distribution charges has paved the way for alternative generation suppliers. The consumer may choose to purchase its generation services from an alternative supplier, while continuing to pay transmission and distribution (wires charge) to the utility. As discussed earlier, the tariff would be included in the wires charge, so that collection of the tariff itself would not be endangered by the existence of competition for generation services. However, commingling risk could exist as a result of potential billing arrangements for the utility's transmission and distribution services on the one hand, and the alternative energy provider's generation services on the other.

Generally, alternative energy service providers (retail electric providers; third-party servicers) may provide a consolidated bill for their generation services and the tariff owed to the utility. Where this is the case, the energy services provider is liable to pay the tariff regardless of whether it has received collections from the ultimate users. As a result, the securitization is exposed to commingling risk, and the resulting loss of commingled tariffs, in the event of the bankruptcy of an energy services provider.

This risk can be mitigated by certain restrictions on the length of time that an energy services provider may commingle funds before consolidated billing and service is terminated. If the energy services provider becomes delinquent, direct and consolidated billing may cease and service and separate billing to the end-user customer would be made up for the tariff. This means that the aggregator could commingle funds for a number of days before consolidated billing were terminated. To address this risk, Standard & Poor's stressed cash flow runs eliminate one month of collections per year at the utility's peak billing cycle.

This or other risks involving alternative energy providers may exist in other stranded cost securitizations. Standard & Poor's will assess these risks and the resulting necessary cash flow stresses on a case-by-case basis.

Estimate of Tariff Based on Collections Curve Generally, utilities are unable to allocate amounts received to various charges on the bill, so they were unable to calculate what percentage of collections constituted tariff collections. To address this problem, the utilities prepared forecasts of the percentages of amounts expected to be received during each of the following six months. These forecasts were based on collections curves developed periodically based on accounting studies and collections studies performed by the companies. For each monthly billing period, collections were estimated over six months based on the collections curve.

When the actual tariff remittances by customers are calculated (on the seventh month following each monthly billing period), either too much or too little may have been paid for that billing period. If the amount remitted has been less than the actual tariffs collected during that six-month period, the shortfall will be made up the following month out of the servicer's (the utility's) own funds. Thus, if the servicer is bankrupt (Standard & Poor's assumption), there is a risk the bondholders will lose that portion of the tariff. If the actual tariff amount has been less than the estimated tariff collections remitted to the trust, the servicer would be entitled to withhold the excess amount paid from the next month's remittances.

It is not clear whether this risk will be present in other securitizations. To date, the risk of lower-than-actual remittances has not been separately stressed in the cash flow runs. The one month of lost collections (see Commingling by Aggregators) has been sufficient to cover this risk. Standard & Poor's also has relied on data provided by the company showing relative lack of volatility in the collections curve.

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Higher Tariff An increase in tariff resulting from higher true-ups might become burdensome to consumers. This risk might have a spiraling effect, because greater charge-offs or customer migration or decreased usage might result, which in turn would result in the need for increased true-ups. Standard & Poor's will assess this risk by examining the highest per kWh tariff charge reached under the relevant stress scenarios. This risk increases as the term of the transaction increases to 10-15 years given greater technological/migration risk.

Cash Flows Two cash flow runs are generally required in rating stranded costs: a compounding forecast error run and an oscillating forecast error run, implementing the stress scenarios described below. These runs are created to test liquidity as well as the transaction's ability to meet the final maturity of each class of bonds in the transaction. They do so by creating scenarios where the true-up in the tariff amount (the reset of the tariff to reflect prior experience with actual collections and recover prior shortfalls in collections) continuously fails to reflect actual collections.

Compounding Forecast Error Run The compounding forecast error run assumes a compounding stressed error in forecasting resulting in a continual decline in actual tariff collections over what was forecast for that year. Assume, for example, that during year one, sales are 90% of the original sales forecast, that is, forecast error reflecting a multiple of the average forecast error for the customer class, where actual collections are less than expected collections.

At the end of year one, the tariff charge is recalculated assuming that year two customer sales will be what was experienced in year one, that is, 90% of the original expected forecast. Instead, year two sales are only 81% (90% of 90%) of the original sales forecast.

The sales decline is generally based on a multiple of the absolute value of the largest historical non-weather-normalized forecast variance by customer class. This compounding is assumed to continue from year to year over the life of the transaction.

Oscillating Forecast Error Run The oscillating forecast error run assumes a scenario where in one-year tariff collections exceed expectations, so that in the following year, the tariff is reset based on the prior year, only to experience a shortfall in actual collections. Assume for example that the appropriate stressed forecast error is 10%. During year one, sales are 90% (10% below) the original sales forecast. At the end of year one, the tariff is recalculated assuming that year two sales are also 90% of the original forecast. Instead, year two sales are 99% (110% of 90% level) of the original forecast. The tariff for the following year is reset assuming 99% of original forecast collections, only to receive 90% of originally forecast collections. This oscillation between 90% and 99% of original forecast is assumed to continue over the life of the transaction.

Legal Final Maturity The legal final maturity dates on stranded cost transactions are often set at up to two years beyond expected maturities. This additional period acknowledges the long-term nature of the liabilities being rated, and the corresponding possibility that fundamental changes in technology might take place that further stress the transaction in an unforeseen manner. One currently known possibility is that over time customers may increasingly switch to self-generation, which would enable them to cease paying the wires charge and thus, the tariff. Certain transactions have reduced this period by requiring more frequent (e.g. monthly) true-ups during the final year or two of the transaction.

Legal Risks

Reliance on Commission to Implement True-Up, and Potential Delay in Approving the True-Up Standard & Poor's believes that so long as the statute clearly specifies the maximum period before which the commission is compelled to implement the true-up, any shortfall in collections resulting from the delay can be sized and factored into the cash flow projections. Certain structures may permit the application of principal collections as liquidity for any interest payments due to noteholders during any true-up delay. In the absence of such features, adequate provision for liquidity and additional credit support should be demonstrated to Standard & Poor's.

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Adequate Provision Law permits alteration or limitation of right to transition property and right to collect tariffs if "adequate provision" is made to the bondholders. Although there has been no conclusive demonstration as to what constitutes "adequate provision," and how such alteration or limitation would affect timely interest and principal payments on the bonds, Standard & Poor's, in rated transactions, has received legal assurances that any such alteration would be constitutionally prohibited were it substantially to impair the security for the bonds. While such assurances do not really define adequate provision, Standard & Poor's believes, in practice, that adequate provision should prove to be the functional equivalent of the pledged transition property.

Stranded Assets to Aid Industry Restructuring

Securitization of stranded assets provides an efficient method electric utilities can use to quickly free themselves from the high cost of stranded assets that prevents them from becoming players in the emerging competitive retail generation market. At the same time, the statutory true-up mechanism provides strong credit support that has withstood 'AAA' stress criteria applied by Standard & Poor's.

Related Criteria

- Post-Default Ratings Methodology: When Does S&P Global Ratings Raise A Rating From 'D' Or 'SD'?, March 23, 2015
- U.S. Public Finance: Electric And Gas Utility Ratings, Dec. 16, 2014
- Methodology: Timeliness of Payments: Grace Periods, Guarantees, And Use of 'D' And 'SD' Ratings, Oct. 24, 2013
- Global Framework For Assessing Operational Risk In Structured Finance Transactions, Oct. 9, 2014
- Counterparty Risk Framework Methodology And Assumptions, June 25, 2013
- Criteria For Assigning 'CCC+', 'CCC', 'CCC-', And 'CC' Ratings, Oct. 1, 2012
- Global Investment Criteria for Temporary Investments in Transaction Accounts, May 31, 2012
- Principles Of Credit Ratings, Feb. 16, 2011
- Methodology: Credit Stability Criteria, May 3, 2010
- Use of CreditWatch And Outlooks, Sept. 14, 2009
- U.S. Legal Criteria For "Recycled" Special-Purpose Entities, Sept. 19, 2002

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Version 3

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A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL
TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing sites and facilities in the Province for the generation of electrical energy and the production therefrom,[2] and conservation and demand management.

The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[1] Note: please see the preamble of the *Green Energy Act, 2009.*
[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".
[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

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CONTENTS

PART I
GENERAL

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT

6. Fair adjustment, May 1, 2017 to April 30, 2018
7. Fair adjustment, May 1, 2018 to April 30, 2022

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay clean energy adjustment
9. Irrevocability of clean energy adjustment
10. Determination of clean energy adjustment
11. IESO to issue remittance notice to electricity vendors
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

18. Interpretation, portion of regulatory asset
19. Variance account
20. IESO funding shortfall
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Interpretation, investment asset
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment asset owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

103. Commencement
104. Short title

Confidential Draft

Schedule 1 Estimated finance amount

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated costs to be incurred by the IESO under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management, including storage,

(iii) energy efficiency,

(iv) 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, or

(v) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

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(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means the IESO, a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

"fair adjustment" means the determination of the rate payable for electricity in accordance with Part II; ("French")

"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner or an investment asset owner under section x; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means, in respect of a reference period, the amount determined under section 20xx for the reference period; ("French")

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

[4] Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"investment interest" means an ownership interest in the investment asset, which entitles an investment asset owner to the rights and benefits specified in the agreement under which the ownership interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the IESO funding shortfall; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

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(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

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Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

    i. The commodity price of the electricity used during the invoice period.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

    iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

    v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

    i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

    ii. A charge labelled as a "specific service charge" or "retail service charge".

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iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month.

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of its interest in the regulatory asset with the result of a named person becoming the owner of an investment interest.

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.

PART II
FAIR ADJUSTMENT

[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the average monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] the rate for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount.

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

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Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation applicable at the time when the payment is due; and

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

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Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall be determined as follows:

1. Calculate the estimated finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. Add the true up amount for the reference period, as determined in accordance with the prescribed method, to the estimated finance amount calculated under paragraph 1.

True up amount

(2) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

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i. differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

ii. variations in billings due to variations in electricity consumption.

IESO to issue remittance notice to electricity vendors

11xx. (1) The IESO shall, in accordance with the regulations, issue a remittance notice to each electricity vendor for the electricity vendor's portion, as determined in accordance with the regulations, of the clean energy adjustment in respect of a reference period.

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment from electricity vendors [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of collecting those accounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (6), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Collection of outstanding amounts, regulatory asset

(6) If the total clean energy adjustment payable by specified consumers in respect of a reference period is less than the amount contemplated to be payable under the

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applicable fair allocation calculation made by the Financial Services Manager under Part IV, the IESO may collect the difference from specified consumers.

Electricity vendor to invoice specified consumers

12xx. (1) The electricity vendor shall issue an invoice to each specified consumer for the consumer's amount of the clean energy adjustment in accordance with the regulations.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the IESO and the investment asset owners, collect the clean energy adjustment from specified consumers [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor other than the IESO shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the regulations.

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Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

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2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be borne by the specified consumers in respect of clean energy costs [in the absence of this Act].

2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

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1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers for each reference period.

    iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

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FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare and provide to the Minister a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred or potential transfers should be made for the purposes of this Act.

Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align the expected finance amount determined under Schedule 1 that would become due and payable during a reference period with the fair allocation amount determined for the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment for the reference period.

2. Incurrences and transfers should be implemented in a manner that, as the Financial Services Manager considers to be reasonable, is cost effective and reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

[Note for reference: List of items for consideration in regulation: (a) anticipated IESO funding shortfalls and related transfer amounts; (b) the maturities of funding obligations; (c) the availability of refinancings, redemption opportunities and liquidity terms and conditions in order to achieve the objective contemplated in section X(1)(a); (d) the availability of currency and interest rate hedging facilities for the purpose of mitigating any differences between the expected finance amounts becoming due and payable during a reference period and the fair allocation amount for the reference period; (d) the amount and potential variability of interest rates and related financing costs; (e) available capital markets in which funding obligations may be incurred.]

Amendments to approved plan

(3) The Financial Services Manager may amend the Financing Plan at any time, without the approval of the Minister, subject to the requirements set out in this section.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in a clean energy adjustment for the reference period unless,

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(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount for the reference period and the amount of the fair adjustment for the reference period].

Confidentiality of plan

(4) The Financing Plan is deemed to be a record subject to section 17 of the *Freedom of Information and Protection of Privacy Act.*

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations and make transfers in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, section [paramountcy of funding obligations] applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish one or more financing entities that may incur funding obligations and make transfers.

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

Effect of amendment to Fair Allocation Plan

(4) No funding obligation incurred and no transfer made by the Financial Services Manager shall be affected by any inconsistency with the Financing Plan, including any inconsistency with the principles set out in section X.

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PART V
THE REGULATORY ASSET

Interpretation, portion of regulatory asset

18xx. If a transfer under this Part provides for the transfer of a portion of the regulatory asset, any references in this Part to the regulatory asset are deemed to be references to the portion of the regulatory asset transferred.

[Note: This is meant to assist with clarity in the subsequent provisions.]

Variance account

19xx. (1) The Board shall issue an accounting order to authorize the IESO to do the following:

1. Create a variance account for the purposes of this Act.

2. Record the IESO funding shortfall in the variance account from time to time.

3. Recover the IESO funding shortfall in accordance with section X and the regulations.

No hearing

(2) The order of the Board shall be made in writing and without holding a hearing.

No appeals, etc.

(3) No appeal lies from the order of the Board.

IESO funding shortfall

20xx. (1) The IESO shall determine the IESO funding shortfall for each month in the following manner:

1. Calculate the sum of all invoice amounts issued to specified consumers for the month if Part II of this Act did not apply.

2. Calculate the sum of all invoice amounts issued to specified consumers for the month.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1, and make any other adjustments as may be prescribed.

Same

(2) To the extent that the IESO funding shortfall for any month is based on an estimate of the electricity used by specified consumers, the IESO shall record an

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adjustment in the variance account in the following month to reflect the difference between the estimate and the electricity actually used by specified consumers.

Recording of IESO funding shortfall

(3) IESO shall record the IESO funding shortfall from time to time, including adjustments resulting from the exercise of the right of recovery under section 21 and any transfer under section 22, in the variance account.

Recording determinative

(4) A recording of the IESO funding shortfall in the variance account is determinative of the amount of IESO funding shortfall at the time of the recording.

Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the IESO funding shortfall.

Same, restrictions

(2) The IESO's right to recover the IESO funding shortfall under subsection (1) is subject to the following:

1. The IESO shall not be entitled to collect the IESO funding shortfall from specified consumers before May 1, 2022.

2. The process by which the IESO may recover the IESO funding shortfall shall be established by the Board, having regard to the amount of the IESO funding shortfall from time to time and the [fair allocation calculation].

3. Such other restrictions as may be prescribed.

Transfer of regulatory asset

22xx. (1) The IESO may transfer all or a portion of the regulatory asset to any financing entity under the Financing Plan, which transfer creates the investment asset.

Same

(2) Upon receipt of any payment in consideration for the transfer,

(a) the IESO shall record the payment as a reduction of the IESO funding shortfall in the variance account; and

(b) unless otherwise provided for in this Act, the IESO shall have no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

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Same

(3) Upon transfer, the financing entity becomes an investment asset owner and acquires an investment interest.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment asset owner of the regulatory asset, and the investment asset created by the transfer shall be immediately vested in the transferee.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Interpretation, investment asset

24xx. If a transfer under this Part provides for the transfer of an investment asset, any references in this Part to the investment interest are deemed to be references to the specific investment interest transferred.

Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests without duplication:

1. The right to impose, bill, invoice, collect and receive the clean energy adjustment from specified consumers, including the right to determine the amount of the clean energy adjustment in accordance with this Act.

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2. The right to receive and collect all amounts in respect of the clean energy adjustment that are imposed, billed and invoiced under this Act, including any amounts that all amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge, bill and invoice the clean energy adjustment.

5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of the clean energy adjustment.

6. All rights of any kind (whether in tort, contract or otherwise) that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset owner's regulatory asset.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether such revenue, collections, claims, payments and proceeds are imposed, invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

No set off, etc.

(2) The investment asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, an agent of the investment asset owner or an owner of distribution system assets in the Province;

(b) in connection with any default, bankruptcy, reorganization or other insolvency proceeding of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

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Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with section [xx] of the *Personal Property Security Act*.

Collective action required

(4) If the investment asset owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment asset owner collectively and in coordination with all other investment asset owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment asset owner as a collective in accordance with its terms. [Note: Successors may need to be addressed here.]

Transfer of investment interest

26xx. An investment asset owner may transfer all or a portion of its rights and interests in an investment interest to any other investment asset owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the owner of the investment interest acquired a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment asset owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (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 investment asset owner shall have priority over any liens in favour of such other persons.

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Investment asset owner may grant security interest

28xx. (1) An investment asset owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by the owner of an investment interest to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment asset owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [investment asset account] or other account of any electricity vendor, the IESO, an agent of an electricity vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

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PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment asset owner or a secured party, order the sequestration and payment of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment asset owner or secured party by any person or entity authorized to collect the clean energy adjustment, defaults on any required remittance of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Same

(3) An order under subsection (1) shall remain in full force and effect despite any bankruptcy, reorganization or other insolvency proceedings with respect to the person or entity who is subject to the order.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

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No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required with respect to the actions to be taken in compliance with this Act, including actions to be taken under the Financing Plan or in relation to the establishment of the Fair Allocation Plan.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under this section unless the prescribed requirements, if any, are satisfied.

Non-application, Financial Administration Act, s. 28[7]

37xx. Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.

Regulations

38xx. The Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act….

(b) prescribing types of payment obligations that constitute funding obligations;

(a) governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment.

(b) governing the inclusion of adjustments under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments.

[7] Note - see s. 51 of the Electricity Act, 1998

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[Note: reg-making powers to be dealt with in subsequent draft]

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under that Act and engaging in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including the following:

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1. Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by the *Ontario Fair Hydro Plan Act, 2017* subject to the right of reimbursement from amounts available to the financing entity.

2. Preparing reports on behalf of the financing entity.

3. Enforcing the rights of the financing entity.

4. Signing offering documents as sponsor or otherwise on behalf of the financing entity.

5. Exercising the powers and performing the duties of the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*

6. Issuing non-equity securities in Ontario Power Generation Inc. or on if its subsidiaries, for the purpose of raising funds to acquire debt or equity interests in a financing entity whose activities are limited to the incurrence of funding obligations pursuant to the *Ontario Fair Hydro Plan Act, 2017*.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

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[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* would be amended by adding the following paragraph:

6. To facilitate the implementation of the [TBD - language should link up with language from new Act.]

205x. Section 70 of the Act would be amended by adding the following subsection

[Note - still need to draft new subs. 70 (2.1)]

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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SCHEDULE 1
ESTIMATED FINANCE AMOUNT

Estimated finance amount

1. The estimated finance amount for a reference period shall be determined by estimating, prior to the start of a reference period, the sum of the following:

1. The sum of all amounts that are payable during the reference period by or on behalf of the investment asset owners to satisfy an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase, of all or a portion of the amount advanced to the owners under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

2. The sum of all funding costs for the reference period, determined as follows:

    i. Calculate the aggregate of all interest, scheduled principal and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of investment assets owners during the reference period in respect of all funding obligations, including such amounts as may be prescribed.

    ii. Calculate the sum of the aggregate of all amounts received by or on behalf of investment asset owners during the reference period in respect of all funding obligations and such other amounts as may be prescribed.

    iii. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

3. The sum of all amounts payable during the reference period by or on behalf of investment asset owners to redeem, prepay or repurchase a funding obligation, including any premium, make-whole or other amount becoming payable under a funding obligation to give effect to the redemption, prepayment or repurchase.

4. The balance of the finance reserve at the end of the reference period, as determined under section 3 to this Schedule.

5. The sum of any other amounts payable during the reference period by or on behalf of investment asset owners that were incurred or committed to directly or indirectly in connection with the incurrence of funding obligations under the Financing Plan during the reference period, which may include such amounts as may be prescribed.

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Funding costs

2. For the purposes of paragraph 2 of section 1 to this Schedule, the funding costs for a reference period are determined by taking the following steps:

Finance reserve balance

3. (1) For the purposes of paragraph 4 of section 1 to this Schedule, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

1. Calculate the sum of all amounts deposited by or on behalf of investment asset owners during the reference period in order to pre-fund, collateralize, over-collateralize or establish reserves for the ultimate payment of funding obligations or for related contingencies specified in the Financing Plan.

2. Calculate the sum of all amounts withdrawn by or on behalf of investment asset owners during the reference period from deposits previously made as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

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From:	Gadi Mayman
To:	Ken Kandeepan; Mike Manning; Ronald Kwan
Cc:	Anna Strathy
Subject:	Fw: Guarantee
Date:	Friday, April 21, 2017 2:40:35 PM
Attachments:	Guarantees.docx

I don't think the original email I sent to you had this attachment.

Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 2:33 PM
To: Gadi Mayman; anna.strathy@ofina.ca
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don't' know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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There are two types of "guarantees" that we are looking for from the Province in relation to this program on the basis that any debt issued under the Fair Hydro Program will be AAA-rated. The following is based on the understanding that charges collected from prescribed consumers will be subject to a moratorium during the first 5 years of the program which results in interest and other on-going expenses of the financing entity not being recovered from ratepayers during this initial 5 year period.

The legislation must include a specific reference to the Province being required to provide a guarantee on debt repayment and servicing in certain circumstances.

The first is a "Springing Guarantee", which would be via a legal agreement put in place when establishing the program and would require the Province to step in and assume responsibility for paying all amounts that are or become due in respect of (i) any of the outstanding funding obligations; (ii) the operation and maintenance of the financing entity; and (iii) any other amounts due in relation to the program that have not yet been paid (collectively, the "Fair Hydro Program Costs"). This Springing Guarantee would kick in should any of the following happen:

(1) There is any change in the legislation or regulations that is, or could be, adverse to finance entity noteholders or the legislation is determined to be *ultra vires*. In this situation, the Springing Guarantee would require the immediate repayment of all Fair Hydro Program Costs (including any makewhole prepayment obligations).

(2) There is a market disruption (i.e. there is a period of time when capital markets term funding is not available to take out the warehouse facilities (bank facility or ABCP)). In this situation, either (i) we must have the ability to recover amounts relating to principal recoveries by invoicing and collecting clean energy adjustments, regardless of whether this is during the first 5 or 10 years of the program; or (ii) the Province must be responsible for the immediate repayment of those warehouse facilities. In respect of clause (2)(i), those clean energy adjustments could either be passed on to the ratepayers, or be funded by an incremental IESO shortfall or servicer advance (which in turn, could be funded by the Province).

The period of time that must lapse before this Springing Guarantee becomes applicable with respect to the warehouse facilities can be set to accommodate a short term dislocation in the term funding market (6-18 months). We would note that depending on the size of the warehouse facility, if there is no term takeout for an extended period of time, it is likely that the warehouse facilities will also quickly reach their credit limits and the province would likely have to fund any future shortfalls if they wished to continue the program.

To the extent that the Springing Guarantee does not require the Province to make the repayment contemplated under scenario (1), but simply requires the Province to repay the debt in accordance with its original repayment terms, this may adversely impact the rating of the Fair Hydro Program.

The second type of guarantee we are looking for from the Province is a performance guarantee. This is not a credit guarantee. The performance guarantee would require the Province to stand behind certain of the servicing obligations in the program. Typically, if there is a situation where a servicer does not perform all of the duties themselves, but delegates some of

their activities to a sub-servicer or agent, the servicer would retain responsibility for duties performed by those delegates. Our understanding is that IESO will only be acting as agent in this transaction, so this standard will not be in place with respect to IESO or the LDC's. To address this risk, we would be looking for a performance guarantee to be included as part of the documents for the program which would cover any of the servicing and collection activities, regardless of whether those were performed by IESO, as initial servicer, a replacement servicer or an LDC. The performance guarantee would, amongst other things, require the Province to stand behind (including taking responsibility for helping remedy any breaches in) the representations, warranties and covenants made be the servicer and the servicer's or LDCs' obligations to collect and remit clean energy adjustments. It would also require the Province to ensure that the servicer and, if applicable, LDC, performs their servicing activities as set out in the securitization documents and if they do not, put in place an alternative servicer who would perform those servicing activities. Subject to confirmation with the rating agencies, the performance guarantee should also address commingling risk during each month. Typically, as long as the performance guarantor maintains an acceptable rating (at or slightly above investment grade), cash collections should be permitted to be commingled each month until remitted to the Financing Entity with the Province taking responsibility for the commingling risk (i.e. the Province would be required to remit if there were amounts collected and commingled, but not received by the Financing Entity). Our understanding is that the LDCs will be performing certain servicing and collection activities which we would describe in the legal agreements, but we are not expecting the LDCs be parties to the agreements themselves. The performance guarantee would need to cover activities performed by the LDCs, as well as the servicer, including any cash collected but not remitted to the Financing Entity. The performance guarantee would also include the Province standing behind any other potential liabilities arising from the performance of such servicing obligations by the parties involved in servicing these investment assets on behalf of the Financing Entity.

From:	Gadi Mayman on behalf of HAHN PARKER Janet -TREASURY
To:	Ken Kandeepan; Mike Manning; Carlos Yep; Ronald Kwan; Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; "Persaud, Donnie - Debt Capital Markets"; Benaiah, Ian
Cc:	Anna Strathy
Subject:	Fw: OPG - FHP - Guarantee
Attachments:	disclaimer.html

From: HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>
Sent: Wednesday, August 2, 2017 1:43 PM
To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian
Subject: OPG - FHP - Guarantee

When: Wednesday, August 09, 2017 2:15 PM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OPG, 700 University Avenue, 18th Floor, Treasury C/R
Note: The GMT offset above does not reflect daylight saving time adjustments.
~~*~*~*~*~*~*~*~*~*
Please come to OPG's office, 18th floor. We will meet you at the Glass Doors.
No pass required.
Thank you.

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From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Gadi Mayman; Anna Strathy; Ronald Kwan; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF)
Subject:	Fw: Ontario Fair Hydro Plan
Date:	Wednesday, April 26, 2017 4:23:18 PM
Attachments:	Fair Hydro Plan Act (April 26 2017) Consultation v4.docx

Please see attached the latest draft of the legislation. My understanding is that there is only room to make small tweaks based on the timeline right now.

Please note that Energy has not removed the exemption from section 28 in this draft. I am not sure if there has been any further discussion on that subject, but I think that if we want to push back on this issue it needs to be communicated as soon as possible.

Also, there is new language around the guarantee, but it does not contemplate the current plan to have both Ministers sign the guarantee. I have let Energy Legal know that this would make sense to change.

Best
Toby

Tobias Whitfield
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Phone: 416-325-1456
From: Rehob, James (ENERGY) <James.Rehob@ontario.ca>
Sent: Wednesday, April 26, 2017 3:19 PM
To: Whitfield, Tobias P. (MOF)
Subject: FW: Ontario Fair Hydro Plan

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April 26, 2017

Hi, Toby. I am pleased to attach the most recent version of the draft legislation pertaining to the electricity rate reductions and intergenerational cost transfer.

Thanks for your help on all of this, and note that this version does not include amendments to EA ss.89 and 90 (PILS amendments). Those discussions are ongoing between MOF policy, OPG/Tory's and ENERGY is awaiting those discussions to close before finalizing the legislation on these matters.

Best regards,

James

James P. H. Rehob
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Version 4

This confidential draft document is provided for discussion purposes only. It should not be construed as representing the position adopted by the Government of Ontario on any of the topics included or not included in this document. The notes included in this document are intended only to help facilitate a discussion of the topics to which they relate. Any potential legislation is subject to the approval of the Ontario Legislature.

A proposal to create Legislation.

An Act to provide for the fair allocation of costs of electricity over time, if enacted

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A proposal to create Legislation.

An Act to provide for the fair allocation of costs of electricity over time, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL TO ANY FINAL BILL PRIOR TO INTRODUCTION.

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Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1] These commitments can only be achieved if costs are shared fairly among consumers, today and in the future.

Electricity rates have risen for two key reasons. First, decades of under-investment in the electricity system resulted in the need to invest more than $50 billion in generation, transmission and distribution assets to ensure the system is clean and reliable. Second, the decision to eliminate Ontario's use of coal and produce clean, renewable power has created additional costs.

The actions taken to achieve a clean, modern and reliable electricity system have resulted in significant costs to consumers today. The burden of financing these system improvements and funding key programs has unfairly fallen almost entirely on the shoulders of today's consumers.

The Government of Ontario is committed to ensuring that the costs of financing these investments and the associated charges to consumers are allocated fairly among present and future generations of consumers.

Recognizing that the electricity infrastructure that has been built and the policy decisions that have been made will create benefits for years to come, costs should be allocated fairly over time, so that consumers in the future pay their fair share for the benefits that they receive from the investments already made.

CONTENTS

PART I
GENERAL

[1] FLS: please see the preamble of the *Green Energy Act, 2009.*

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT OF ELECTRICITY RATES

6. Definitions
6.1 Specified RPP consumer, first fair adjustment
6.2 Specified consumers (non-RPP), first fair adjustment
6.3 Determination by Board
6.4 Implementation of rates
6.5 Effective date
6.6 Transition
7. Subsequent fair adjustments
7.1 Sub-meter customers

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay
9. Irrevocability of amount
10. Determination of clean energy adjustment
11. IESO to receive amounts
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION
FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

20. IESO funding shortfall
20.1 Variance account to be established, maintained
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Effect of transfer
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment interest owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS
ELECTRICITY ACT, 1998
AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

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103. Commencement
104. Short title

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")

"clean energy benefits" means the value of the benefits determined to be derived by or accruing to the specified consumers as a result of the clean energy initiative, including as a result of clean energy costs; ("French")

"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 estimated 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 for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management,

(iii) energy storage,

(iv) energy efficiency,

(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, or

(vi) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

(b) such other estimated costs as may be prescribed; ("French")

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"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[2] means,

(a) a licensed distributor,

(b) a licensed retailer,

(c) the IESO in circumstances where the IESO directly invoices a specified consumer, or

(d) such other person as may be prescribed; ("French")

"fair allocation amount" means the amount determined in under section 15xx;

"financing entity" means an entity established or caused to be established under subsection 17xx (3); ("French")

"Financial Services Manager" means the Financial Services Manager appointed under section 13xx; ("French")

"Financing Plan" means the plan prepared under section 16xx, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means,

(a) a payment obligation incurred in connection with the transfer of a regulatory asset or the refinancing of an existing funding obligation, or

(b) a payment obligation that meets such other criteria as may be prescribed; ("French")

[2] FLS - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means the amount determined under section 20xx; ("French")

"investment asset" means the rights and interests described in section 22xx; ("French")

"investment interest owner" means a financing entity that has acquired and holds an investment interest; ("French")

"investment interest" means,

(a) an ownership interest in the investment asset, and

(b) in circumstances where the ownership interest is transferred, the rights and benefits specified in the agreement under which the interest is transferred; ("French")

"invoice amount" means, in respect of an invoice period, the sum of the amounts set out in subsection (2.1) in relation to the provision of electricity in Ontario to a specified consumer; ("French")

"invoice period" means the period in respect of which an invoice amount applies, as specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"Ontario Power Generation Inc." means the corporation incorporated as Ontario Power Generation Inc. under the *Business Corporations Act* on December 1, 1998; ("Ontario Power Generation Inc.")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

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(a) the period beginning on May 1, 2017 and ending on October 31, 2017, and

(b) during the period beginning on November 1, 2017 and ending on April 30, 2047,

(i) every six-month period following the period mentioned in clause (a); or

(ii) any period shorter than six months, as may be prescribed; ("French")

"refinancing" means, subject to the regulations, a redemption, repayment or repurchase of a funding obligation; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right and interest established under section 21xx; ("French")

"specified consumer" means,

(a) a person who has an account with an electricity vendor for the supply of electricity in Ontario and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

"transfer" means [TBD]; ("French")

"unit sub-metering" has the same meaning as in the *Energy Consumer Protection Act, 2010*; ("activités liées aux compteurs divisionnaires d'unité")

"unit sub-meter provider" has the same meaning as in the *Energy Consumer Protection Act, 2010*; ("fournisseur de compteurs divisionnaires d'unité")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

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2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

Invoice amount

(2.1) Subject to the regulations, the invoice amount for a specified consumer in respect of an invoice period includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following amounts in respect of the invoice period:

    i. The commodity price of the electricity used.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998* and in effect on April 30, 2017.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

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iv. The amount of any harmonized sales tax payable by the consumer under Part IX of the *Excise Tax Act* (Canada) in respect of the amounts mentioned in subparagraphs i, ii and iii;

v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO or other prescribed entity, such amounts as may be prescribed in respect of the invoice period. ("French")

Same, exclusions

(2.2) Subject to the regulations, an invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices in respect of previous invoice periods.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

   i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

   ii. A charge labelled as a "specific service charge" or "retail service charge".

   iii. A rate rider [of the prescribed type or class].

5. Any other prescribed amounts.

Effect of invalidity, etc.[3]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if one or more provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

[3] FLS: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect the validity or enforceability of a funding obligation incurred under this Act before the day that the provision is held to be invalid or ceases to be in effect, or any rights or obligations associated with the funding obligation.

Purpose

3xx. (1) The purposes of this Act are,[4]

(a) to ensure that clean energy costs are fairly allocated among present and future specified consumers and reflect the fair allocation; and

(b) to recognize that clean energy benefits have accrued and will accrue over time and will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of amounts in respect of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the clean energy adjustment determined under this Act or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding the performance of IESO or electricity vendors under this Act or similar transactions.

[4] FLS: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Guarantee, indemnification

(4) The Lieutenant Governor in Council may by order,

(a) authorize the Minister of Finance, on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

(ii) to determine terms and conditions and the amount on which the guarantee or indemnity will be given;

(b) impose terms and conditions, as it considers advisable, on which the Minister of Finance may, on behalf of the Province, agree to guarantee or indemnify as described in subclause (a) (ii); and

(c) specify a maximum liability for the guarantee or indemnity.

PART II
FAIR ADJUSTMENT OF ELECTRICITY RATES

Definitions

6xx. In this Part,

"effective date" means the date determined under section 6.5xx; ("French")

"RPP rate" means the rate determined by the Board under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*, which rate is commonly referred to as the Regulated Price Plan"; ("French")

"specified RPP consumer" means a specified consumer who meets the following criteria:

1. The consumer is a member of the class of consumers prescribed by the regulations made under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act.

2. The consumer is subject to the RPP rate. ("French")

Specified RPP consumer, first fair adjustment

6.1xx (1) The rate for electricity payable by a specified RPP consumer for the period beginning on the effective date and ending on April 30, 2018 is the rate required for a specified RPP consumer who meets the prescribed criteria to receive a monthly invoice

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amount that is 25 per cent lower than the monthly invoice amount for that consumer under the comparison rate described in subsection (2).

Comparison rate

(2) The comparison rate is the rate that would be effective May 1, 2017, determined by the Board solely using the method prescribed by the regulations made under clause 79.16 (1) (b) of the *Ontario Energy Board Act, 1998*.

Same

(3) For the purposes of subsection (2), the applicable method is the method on the day this section comes into force.

Specified consumers (non-RPP), first fair adjustment

6.2xx The rate for electricity payable by a specified consumer who is not a specified RPP consumer for the period beginning on the effective date and ending on April 30, 2018 is the rate that would be necessary in order for [the monthly global adjustment rate] in respect of a specified consumer who is not a specified RPP consumer (RPP) and who meets the prescribed criteria to be reduced by the same amount as the difference between the comparison rate referred to in subsection 6.1xx (2) and the rate determined under subsection 6.1xx (1).

Determination by Board

6.3xx The Board shall determine the rates mentioned in sections 6.1xx and 6.2xx no later than seven business days after the day this section receives Royal Assent.

Implementation of rates

6.4xx Each electricity vendor, [specified consumer who provides electricity to a sub-meter customer and unit sub-meter provider who provides unit sub-metering for a specified consumer] shall, no later than seven business days after the day on which the Board determines the rates under section 6.3xx, adapt is billing practices and invoices to reflect the new rates.

Effective date

6.5xx The rates determined under section 6.3xx are effective on the earlier of the following days:

1. The first day of the month immediately following the last day of the seven-day period referred to in section 6.4xx.

2. July 1, 2017.

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Transition

6.6xx (1) This section applies if an electricity vendor, specified consumer or unit sub-meter provider is unable to comply with section 6.4xx for one of the following reasons:

1. There are fewer than seven days between the day of the Board's determination of rates under section 6.3xx and the effective date.

2. Technical or operational reasons.

Same

(2) In the circumstances described in subsection (1), the electricity vendor, specified consumer or unit sub-meter provider shall,

(a) adapt its invoices as soon as possible and, in any event, no later than August 1, 2017; and

(b) ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate determined by the Board receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Subsequent fair adjustments

7xx. The Lieutenant Governor in Council may make regulations prescribing the methodology to be applied by the Board to determine rates for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

Sub-meter customers

7.1xx A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the applicable rate determined under this Part.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay

8xx. (1) Upon receipt of an invoice that includes an amount in respect of the clean energy adjustment, a specified consumer shall pay the amount to the electricity vendor, as agent of the investment interest owners, in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

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Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment was determined in a manner that was inconsistent with this Act; and

(b) whether the amount payable in respect of the clean energy adjustment relates to funding obligations that were incurred in a manner that was not in material conformity with the Financing Plan.

Indebtedness of specified consumer

(4) An unpaid amount that is required to be paid by a specified consumer under this section constitutes indebtedness of the specified consumer to each investment interest owner to the extent of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer.

Recovery from sub-meter consumers

(6) A specified consumer who provides electricity to a sub-meter customer may recover amounts in respect of the clean energy adjustment payable under this section from each sub-meter customer on a pro rata basis.

Irrevocability of amount

9xx. (1) An amount in respect of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness resulting from the clean energy adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a clerical, typographical or calculation-related error by the electricity vendor.

Determination of clean energy adjustment
Financial Services Manager to determine

10xx. (1) The Financial Services Manager shall determine the clean energy adjustment payable by all specified consumers in respect of each month in a reference period by adding the estimated finance amount in respect of the reference period to the true up amount in respect of the reference period.

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Estimated finance amount, true up amount

(2) The estimated finance amount and the true up amount shall be determined in accordance with the regulations.

Regulations re true up amount

(3) The regulations under subsection (2) shall have regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

    i. differences between the estimated and actual finance amount for the immediately preceding reference period,

    ii. differences between amounts invoiced and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

    ii. variations in billings due to variations in electricity consumption.

Financial Services Manager to notify Board

(4) The Financial Services Manager shall, in accordance with the regulations, notify the Board of the clean energy adjustment and such other information related to the determination of the clean energy adjustment as may be prescribed.

Board to determine rates

(5) The Board shall, in accordance with the regulations, determine the rate at which specified consumers are invoiced to recover the clean energy adjustment in respect of the reference period.

IESO to receive amounts

11xx. (2) The IESO shall, as an agent of the investment interest owners, receive amounts in respect of the clean energy adjustment paid to it from electricity vendors in accordance with the regulations and the market rules made under section 32 of the *Electricity Act, 1998*.

Account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment interest owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of receiving those amounts:

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1. Amounts described in subsection 11xx (2).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8xx (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment interest owner, be received and held in trust by the IESO for the investment interest owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment interest owners in accordance with the regulations.

Electricity vendor to invoice specified consumers

12xx. (1) Each electricity vendor shall issue an invoice to each of its specified consumers for the amount payable by the consumer in respect of the clean energy adjustment, as determined by applying the rate set by the Board under subsection 10xx (2) and in accordance with the regulations.

Electricity vendor to report

(1.1) Each electricity vendor shall, in accordance with the regulations, promptly report to the IESO the total amount invoiced to its specified consumers in respect of the clean energy adjustment, the amount collected and such further information as may be prescribed.

Electricity vendor to collect

(2) Each electricity vendor shall, as agent of the investment interest owners, collect amounts in respect of the clean energy adjustment from specified consumers in accordance with the regulations.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges in respect of the same period.

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Held in trust

(4) Payments received by an electricity vendor from or on behalf of specified consumers shall, until paid to or for the benefit of the investment interest owner in accordance with subsection (5), be received by and held by each electricity vendor in trust for the benefit of the investment interest owners.

Remittance to IESO

(5) Each electricity vendor shall remit amounts described in subsection (5) to the IESO for the benefit of the investment interest owners in accordance with the regulations.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) Subject to subsection (2), Ontario Power Generation Inc. is appointed as the Financial Services Manager for the purposes of this Act.

Replacement

(2) The Minister may terminate an appointment of a Financial Services Manager and may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment interest owners.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section 10xx.

2. Providing information to the IESO in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

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FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate a fair allocation amount in respect of each reference period, having regard to the need to align that amount with the finance amount payable during the reference period, for the purpose of fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of the reference period.

Timing of calculation

(1.1) The Financial Services Manager shall calculate a fair allocation amount in respect of each reference period before any funding obligation is incurred [by a financing entity during the reference period].

Amount

(1.2) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which, if this Act had not been enacted, the estimated clean energy costs and estimated clean energy benefits allocated to specified consumers in respect of the reference period would have exceeded the estimated amount of the adjustments provided for under section 25.33 of the *Electricity Act, 1998* and the regulations made under that provision that would have been borne by the specified consumers in respect of clean energy costs for the reference period.

2. A portion of the value of any fair adjustment that has been made under Part II in respect of any previous reference period.

Principles

(2) In calculating the estimated clean energy costs and estimated clean energy benefits to be allocated to specified consumers in respect of a reference period, the Financial Services Manager shall [comply with the regulations and] have regard to the following principles:

1. Clean energy costs allocated to specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits allocated to the specified consumers in respect of a reference period should be determined in accordance with the regulations.

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3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers in respect of each reference period.

    iii. The expected electricity consumption rates in respect of each reference period.

Method

(3) The Financial Services Manager shall calculate a fair allocation amount in accordance with such methods as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Notification to Minister

(4) The Financial Services Manager shall notify the Minister of the methods used to calculate the fair allocation amount and any changes to those methods.

Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred for the purposes of acquiring an investment interest in accordance with this Act.

Plan to be provided to Minister

(1.1) The Financial Services Manager shall provide the Financing Plan to the Minister.

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Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align with the estimated finance amount, as determined in accordance with the regulations, that would, subject to any refinancing, become due and payable during a reference period with the fair allocation amount determined in respect of the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment in respect of the reference period.

2. Incurrences should be implemented in a manner that, in the opinion of the Financial Services Manager, is reasonable, cost effective and that reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in amounts payable in respect of the clean energy adjustment in respect of the reference period unless,

(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount in respect of the reference period and the amount of the fair adjustment in respect of the reference period].

Other reports

(3.1) The Financial Services Manager shall submit to the Minister such reports and information as the Minister may require from time to time and shall, if required by the Minister to do so, examine, report and advise on any question relating to the Financing Plan.

Confidentiality

(5) The following are deemed to be records subject to clauses 18 (1) (c) and (d) of the *Freedom of Information and Protection of Privacy Act*:

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1. The Financing Plan.

2. Reports referred to in subsection (3.1).

3. Any other document that would reveal information contained in the Financing Plan or the reports.

Amendments to plan

(6) The Financial Services Manager may amend the Financing Plan at any time.

Same

(7) In the event that the Financing Plan is amended, any reference in this section to the Financing Plan is deemed to be a reference to the plan as amended.

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, subsection 17xx (5) applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish or cause to be established one or more financing entities that may incur funding obligations.

Prohibition

(3.1) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, Ontario Power Generation Inc., the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation or other agreement.

Effect of amendment to fair allocation amount

(4) Each funding obligation incurred and each transfer made by a financing entity is deemed to be consistent with the Financing Plan and [the fair allocation amount].

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PART V
THE REGULATORY ASSET

IESO funding shortfall

20xx. (1) The IESO funding shortfall for each month shall be determined in accordance with the regulations.

Electricity vendors to provide information

(2) Electricity vendors shall provide to IESO such information as IESO may reasonably request for the purposes of determining the IESO shortfall under subsection (1) and such further information as may be prescribed.

Same

(3) IESO may rely on information provided by electricity vendors for the purposes of the determination under subsection (1).

Variance account to be established, maintained

20.1xx (1) The IESO shall establish and maintain a variance account for the purposes of this section.

Recording in variance account

(2) The IESO shall record the following in the variance account:

1. The amount of the IESO funding shortfall for each month.

2. All payments received by the IESO resulting from the exercise of the right of recovery under section 21xx and any transfer under section 22xx.

3. Such other adjustments as may be prescribed.

Recording determinative

(3) Subject to any finding of [manifest error], a recording by the IESO in the variance account of the balance is, as of the time of the recording, determinative of the balance at the time.

Rights of investment interest owner

(4) No change made by IESO to the balance in the variance account shall, if the previous balance was relied upon by an investment interest owner in the context of a transfer under section 22x, affect the rights of the investment interest owner acquired under the transfer.

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Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the balance recorded in the variance account from specified consumers.

Limitation

(2) Despite subsection (1), the IESO shall not be entitled to collect all or part of the balance recorded in the variance account from specified consumers before May 1, 2022.

Board to set rates

(3) The Board shall, from time to time, determine and set rates payable by specified consumers to allow for IESO to recover the balance recorded in the variance account.

Same, limitations

(4) The Board's powers under subsection (3) shall be exercised in accordance with the regulations.

Transfer of regulatory asset

22xx. (1) The IESO may from time to time transfer all or a portion of the regulatory asset to any financing entity.

Same

(2) Upon receipt by IESO of payment in consideration of a transfer of all or a portion of the regulatory asset, the transfer shall be valid and enforceable against the IESO and the IESO shall retain no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

Same

(3) Upon transfer, the financing entity acquires an investment interest and becomes an investment asset owner.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment interest owner of the regulatory asset.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

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Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Effect of transfer

24xx. (1) The first transfer of the regulatory asset or a portion of it creates the investment asset.

Same

(2) Upon any transfer of all or a portion of the regulatory asset to a financing entity, the investment asset resulting from the transfer is immediately vested in the financing entity, free and clear of any adverse claim, and the financing entity becomes an investment interest owner and acquires an investment interest**.**

Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests of investment interest owners:

1. The right to impose, invoice, collect, receive and recover amounts in respect of the clean energy adjustment from specified consumers, including the right to determine the clean energy adjustment in accordance with this Act.

2. The right to receive, collect and recover amounts in respect of the clean energy adjustment that are imposed, invoiced and recoverable under this Act, including any amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge and invoice for amounts in respect of the clean energy adjustment.

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5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of amounts in respect of the clean energy adjustment.

6. All rights of any kind related to any of the other property rights or interests that comprise the investment interest.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether it is invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

Not affected by failure to impose etc. clean energy adjustment

(1.1) An investment interest is not affected by any failure to impose, attribute, invoice, accrue or collect amounts in respect of the clean energy adjustment.

No set off, etc.

(2) The investment asset shall not be set off,

(a) by a consumer, an electricity vendor, an agent of the investment interest owner or an owner of distribution system assets in the Province;

(b) in connection with any default of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with Part III of this Act.

Collective action required

(4) If the investment interest owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment interest owner collectively and in coordination with all other investment interest owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment interest owner as a collective in accordance with its terms.

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Transfer of investment interest

26xx. An investment interest owner may transfer all or a portion of its rights and interests in an investment interest to any other investment interest owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the investment asset owner a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment interest owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (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 investment interest owner shall have priority over any liens in favour of such other persons.

Investment interest owner may grant security interest

28xx. (1) An investment interest owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property,

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except as otherwise provided for in this section, and any granting of a security interest by the investment interest owner to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment interest owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any ccount of any electricity vendor, an agent of an electricity vendor or other person who may have commingled such revenues or other proceeds with other funds.

Notice required

(7) The secured party shall be entitled to exercise the rights of an investment interest owner only after the secured party has given notice of the enforcement of its security interest to the IESO.

Definition

(8) For the purposes of this section, a security interest is perfected when it is perfected as described in the *Personal Property Security Act*.

PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

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Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment interest owner or a secured party, order the sequestration and payment of amounts in respect of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment interest owner or secured party by any person or entity authorized to collect amounts in respect of the clean energy adjustment, including defaults on any required remittance of amounts in respect of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required to be taken under the Financing Plan or in relation to the determination of the fair allocation amount.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

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Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under section 5xx unless the prescribed requirements, if any, are satisfied.

Non-application, Financial Administration Act, s. 28[5]

37xx. Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.

Regulations

38xx. The Lieutenant Governor in Council may make regulations in respect of the following matters:

1. [6]Governing anything that is required or permitted to be prescribed or that is required or permitted to be done by, or in accordance with, the regulations or as authorized, specified or provided in the regulations.

2. Defining, for the purposes of a regulation, words and expressions used in this Act that are not defined in the Act.

x. Prescribing types of payment obligations that constitute funding obligations;

x. governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment;

x. governing the inclusion of information under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments;

x. governing the inclusion of information about the clean energy adjustment and any other matters provided for under this Act on invoices issued to specified consumers, including the form that the information must take and the form of

[5] FLS - see s. 51 of the Electricity Act, 1998

[6] FLS - see s. 78 (1) of the Climate Change Mitigation and Low-carbon Economy Act, 2016 - paras. 1 and 2.

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the invoices and any notice to be provided to the specified consumer under this Act[7];

x. prescribing the time within which any action required by this Act may be required to be done;

x. Providing for such other matters as the Lieutenant Governor in Council considers advisable to carry out the purpose of this Act.

PART VII[8]
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* is amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

[7] FLS - see *OEBA s.79.17 and 88(1)(z.11) and (z.12)*
[8] FLS: These amendments are drawn from previous drafting contained in gov2016.146.e05 (which was drafted as amendments to the EA, 1998).

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200.1xx (1) Subsection 25.33 (1) of the Act is amended by striking out "and" at the end of clause (a) and by adding the following clauses:

(c) amounts paid to or received from a [prescribed] financial services entity or [a financing entity prescribed under] the *Ontario Fair Hydro Plan Act, 2017* and any related amounts; and

(d) amounts collected from consumers who are [specified consumers within the meaning of] the *Ontario Fair Hydro Plan Act, 2017* in respect of the clean energy adjustment and any related amounts.

(1.1) Subsection 25.33 (2) of the Act is amended by striking out "and" at the end of clause (a) and by adding the following clauses:

(c) amounts paid to or received from a [prescribed] financial services entity or [a financing entity prescribed under] the *Ontario Fair Hydro Plan Act, 2017* and any related amounts; and

(d) amounts collected from consumers who are [specified consumers within the meaning of] the *Ontario Fair Hydro Plan Act, 2017* in respect of the clean energy adjustment and any related amounts.

(2) Subsection 25.33 (3) of the Act is amended by adding the following paragraph:

4. A consumer who is,

   i. a [specified consumer within the meaning of] the *Ontario Fair Hydro Plan Act, 2017*, or

   ii. prescribed by the regulations [made under the *Ontario Energy Board Act, 1998]*.

(3) Clause 25.33 (4) (b) of the Act is amended by adding "or as may be required under a regulation made under the *Ontario Fair Hydro Plan Act, 2017* or the *Ontario Energy Board Act, 1998*" at the end.

(4) Subsection 25.33 (5) of the Act is amended by adding "or under the *Ontario Fair Hydro Plan Act, 2017*" at the end

201x. Section 53.1 of the Act is amended by adding the following subsections:

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Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and engaging in activities to facilitate the implementation of that Act, including entering into contracts and undertakings on behalf of financing entities, subject to the right to be paid by the financing entities for those services.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create or invest in one or more subsidiaries, trusts, partnerships or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

Deemed assets, entity

(1.3) Despite any other provision of this Act, the *Business Corporations Act* or any other Act,

(a) the assets and liabilities of a special purpose financing entity shall not form part of the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries; and

(b) the assets and liabilities of Ontario Power Generation Inc. or any of its subsidiaries shall not form part of the assets and liabilities of a financing entity.

Definition, financing entity

(1.4) For the purposes of this section, "financing entity" has the same meaning as in the *Fair Hydro Plan Act, 2017*.

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* is amended by adding the following paragraph:

6. To facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*.

205x. Subsection 70 (2.1) of the Act is amended by adding the following paragraph:

4. The licensee is required to comply with the *Ontario Fair Hydro Plan Act, 2017*.

206x. Section 78.1 of the Act is amended by adding the following subsection:

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Same, limitation re Ontario Power Generation Inc.

(3) The determination of a payment to Ontario Power Generation Inc. under this section shall not include any consideration of amounts related to activities of Ontario Power Generation Inc. carried out in relation to the *Ontario Fair Hydro Plan Act, 2017*.

Same

(3.1) The amounts referred to in subsection (3) include, without limitation, the following:

1. Amounts related to the appointment of Ontario Power Generation Inc. as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

2. Amounts related to the charging of fees for performing duties as the Financial Services Manager.

3. Amounts related to exercising the powers and performing the duties of the Financial Services Manager.

4. Amounts related to the consolidation of the assets and liabilities for accounting purposes of any special purpose financing entities established under and for the purposes of that Act.

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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From: Ronald Kwan
To: John Kim
Subject: Fwd: CEO Approved TB Submission for Change of Law Assumption Agreement
Date: Tuesday, September 12, 2017 8:44:06 AM

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** September 12, 2017 at 8:01:07 AM EDT
> **To:** "Mayman, Gadi (OFA)" <Gadi.Mayman@ofina.on.ca>
> **Cc:** "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Reiss, Anthony (MOF)" <Anthony.Reiss@ontario.ca>, "Katona, Keley (MOF)" <Keley.Katona@ontario.ca>, "Cox, Hilary (ENERGY)" <Hilary.Cox@ontario.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement**
>
> Yes it is and it s moving quite rapidly. We will speak with Steve again today about the terminology and analysis.
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> Original Message
> From: Gadi Mayman
> Sent: Tuesday, September 12, 2017 07:57
> To: Hanslep, Malle (MOF)
> Cc: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)
> Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement
>
> Phew! I'll start breathing again! Thanks for the clarification, Malle. Complex file, isn't this?
>
> > On Sep 12, 2017, at 7:54 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
> >
> > Hi Gadi

We do have authority to provide a guarantee or indemnity which is a charge on the CRF so that the Province can pay when due to the investors. It is the part where the province actually replaces the financing entity more officially as the debtor ie the optional replacement part that requires some more analysis and whether that fits under the guarantee authority

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Gadi Mayman

Sent: Tuesday, September 12, 2017 07:33

To: Strathy, Anna (OFA)

Cc: Hanslep, Malle (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)

Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement

I don't think that I understand how this would work, and it strikes me as a very significant issue going to the heart of the value of what we had been calling a guarantee and have now rebranded as an assumption agreement.

How would investors get paid their principal and interest if we don't step in to take over the obligations in the case that the assumption agreement is triggered? I've been going on the assumption, pardon the slightly different use of that word, for the past few months that the Province immediately takes over the debt so that investors aren't at risk of a missed or delayed payment. If that's not possible under current legislation, we need TB to approve a solution that would be included in the Fall Budget Bill that allows us, and assures OPG, investors and the rating agencies, that they will continue to be paid if there is a triggering event, and that those payments will be on the same timelines as if there was no triggering event, unless I'm over

interpreting what this means.

Thanks,

Gadi

On Sep 12, 2017, at 7:03 AM, Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>> wrote:

Thanks Malle. Not a problem. We may continue to receive comments on this draft as it moves through CAO, DM and Minister approvals. I'll prepare a track changes version for Legal sign-off today and recirculation to the group (assuming Gadi is comfortable with the changes).

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]

Sent: Monday, September 11, 2017 5:55 PM

To: Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>

Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca<mailto:Hilary.Cox@ontario.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>

Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement

Also, we had a further call with Blakes this afternoon regarding the optional replacement possibility and it is possible that the Province might need some additional legal authority to directly assume the debt (as it may not be considered to be an indemnity or guarantee)

but since this is optional for the Province, the Province could to obtain that authority in the future. The purpose of having it in the term sheet is to identify this for OPG as an item which we may wish they include in their documentation with other parties to enable this option to be open. If this is happening in a change in law scenario the Province would likely give itself legislative authority to do this as part of the change in law, but we wanted to flag this now too so could we add "subject to obtaining the necessary authority" at the end of the paragraph beginning "In the event.." on p. 3. We haven't had a chance to fully analyze this at this point but think we should include this in the submission now.

Sorry for these last minute comments.

Malle

From: Hanslep, Malle (MOF)

Sent: September 11, 2017 5:41 PM

To: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF)

Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)

Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement

Re: 2(b) when I say the 2 last paragraphs, I mean the paragraphs below 2 (b)(i) and (ii).

From: Hanslep, Malle (MOF)

Sent: September 11, 2017 5:32 PM

To: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF)

Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)

Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement

Hi all,

Sorry about this, but I have a few comments on this version which I hope are not too late. I know that this is moving quickly.

2(a) Can we add the word “substantially” in this proposed minute? Also, as we know and was only discussed this morning, the term sheet doesn’t include support for the sub debt yet. Should this be included into the version or should we await confirmation from OPCD.

2(b) The 2 last paragraphs should be deleted because the current OIC draft does not specify terms and conditions or a maximum liability as this will be left to the Ministers to determine.

p. 3 – second bullet point Should be “A court decision that declares the ability of the Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable.”

Same changes in Recommendation section.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: September 11, 2017 5:04 PM

To: Reiss, Anthony (MOF); Katona, Keley (MOF); Hanslep, Malle (MOF)

Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)

Subject: CEO Approved TB Submission for Change of Law Assumption Agreement

Anthony, Keley, Malle,

Please find attached, the CEO-approved TB Submission for the Assumption Agreement tracking to TB/MBC for the Sep 26 meeting. This version now incorporates input from Energy. I'm also attaching, for your briefing purposes, a deck (slightly revised from the one Keley prepared for the Minister of Energy's briefing two weeks ago).

Keley, could I ask you to please pass this version of the submission along to the Energy DMO for review?

Malle, we'll be looking for Legal sign-off tomorrow. Not sure if you or Michael will be signing off, but I'm happy to swing by 777 Bay at your convenience tomorrow with the approval package.

Anthony, I'll resend a scan with Legal sign-off once we have it.

Please don't hesitate to contact me should you have any questions.

Thanks, Anna

Anna Strathy

Special Policy Advisor to CEO

Ontario Financing Authority

1 Dundas Street West, 14th Floor

416.325.8032 |
anna.strathy@ofina.on.ca<mailto:anna.strathy@ofina.on.ca>

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From:	Ronald Kwan on behalf of Thompson, Scott (MOF)
To:	John Kim; Marianne Nguyen (MCYS); Jonathan Tekle (CAB); @FIN-R-TOR.7QueensParkCres.Deputy.Boardroom (MOF); Helmut Zisser (MOF); Linda Gibney (MOF); Anthony Reiss (MGS); Bridget Jeanes (MGS); Gadi Mayman; Ronald Kwan; Ken Kandeepan; Nancy Kennedy (MOHLTC); Scott Nelms (ENERGY); Malle Hanslep (MOF); Veinot, Cindy (TBS); Francisco Chinchon; Darren Scanlan; Shi, Wentao (MAESD)
Subject:	Fwd: DM\MO Briefing | Provincial Support Agreement to OPG Financing Entity and H1 Brampton Trillium Trust (Sept 26th TB\MBC)

Begin forwarded message:

From: "Thompson, Scott (MOF)" <Scott.Thompson@ontario.ca <mailto:Scott.Thompson@ontario.ca> >
To: "Marianne Nguyen (MCYS)" <Marianne.Nguyen@ontario.ca <mailto:Marianne.Nguyen@ontario.ca> >, "Jonathan Tekle (CAB)" <Jonathan.Tekle@ontario.ca <mailto:Jonathan.Tekle@ontario.ca> >, "@FIN-R-TOR.7QueensParkCres.Deputy.Boardroom (MOF)" <Deputy.Boardroom.fin@ontario.ca <mailto:Deputy.Boardroom.fin@ontario.ca> >, "Helmut Zisser (MOF)" <Helmut.Zisser@ontario.ca <mailto:Helmut.Zisser@ontario.ca> >, "Linda Gibney (MOF)" <Linda.Gibney@ontario.ca <mailto:Linda.Gibney@ontario.ca> >, "Anthony Reiss (MGS)" <Anthony.Reiss@ontario.ca <mailto:Anthony.Reiss@ontario.ca> >, "Bridget Jeanes (MGS)" <Bridget.Jeanes@ontario.ca <mailto:Bridget.Jeanes@ontario.ca> >, "Gadi Mayman" <Gadi.Mayman@ofina.on.ca <mailto:Gadi.Mayman@ofina.on.ca> >, "Ronald Kwan" <Ronald.Kwan@ofina.on.ca <mailto:Ronald.Kwan@ofina.on.ca> >, "Ken Kandeepan" <Ken.Kandeepan@ofina.on.ca <mailto:Ken.Kandeepan@ofina.on.ca> >, "Nancy Kennedy (MOHLTC)" <Nancy.Kennedy@ontario.ca <mailto:Nancy.Kennedy@ontario.ca> >, "Scott Nelms (ENERGY)" <Scott.Nelms@ontario.ca <mailto:Scott.Nelms@ontario.ca> >, "Malle Hanslep (MOF)" <Malle.Hanslep@ontario.ca <mailto:Malle.Hanslep@ontario.ca> >, "Veinot, Cindy (TBS)" <Cindy.Veinot@ontario.ca <mailto:Cindy.Veinot@ontario.ca> >, "Francisco Chinchon" <Francisco.Chinchon@ofina.on.ca <mailto:Francisco.Chinchon@ofina.on.ca> >, "Darren Scanlan" <Darren.Scanlan@ofina.on.ca <mailto:Darren.Scanlan@ofina.on.ca> >, "Shi, Wentao (MAESD)" <Wentao.Shi5@ontario.ca <mailto:Wentao.Shi5@ontario.ca> >
Subject: DM\MO Briefing | Provincial Support Agreement to OPG Financing Entity and H1 Brampton Trillium Trust (Sept 26th TB\MBC)

From:	Gadi Mayman
To:	Mike Manning; Carlos Yep; James Devine
Cc:	Ronald Kwan; Ken Kandeepan; Anna Strathy; Hresa Gavaris
Subject:	Fwd: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date:	Monday, July 10, 2017 10:15:47 AM

Would any of you be available for this meeting with OPG to discuss he guarantee?

Begin forwarded message:

> **From:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Date:** July 10, 2017 at 10:12:23 AM EDT
> **To:** "Montgomery, Kaitlin (MOF)" <Kaitlin.Montgomery@ontario.ca>
> **Cc:** "Carolyn Calwell (MCSS)" <Carolyn.Calwell@ontario.ca>, "Steen Hume (CAB)" <Steen.Hume@ontario.ca>, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>, "Tom McKinlay (MAG)" <Tom.McKinlay@ontario.ca>, "ASHBOURNE, STEPHEN" <STEPHEN.ASHBOURNE@blakes.com>, "Malle Hanslep (MOF)" <Malle.Hanslep@ontario.ca>, "Tobias P. Whitfield (MOF)" <Tobias.Whitfield@ontario.ca>, "Veinot, Cindy (TBS)" <Cindy.Veinot@ontario.ca>, "Nadine Petsche (MOF)" <Nadine.Petsche@ontario.ca>, "Karpowicz, Eva (MOF)" <Eva.Karpowicz2@ontario.ca>, "Scott Nelms (ENERGY)" <Scott.Nelms@ontario.ca>, Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>, Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: Re: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro**
>
> My morning on Wednesday is pretty jammed, but I'm available any time after 11:30, as I can free up my time in the afternoon. I agree that TD should be included.
>
> Regards,
> Gadi
>
> On Jul 10, 2017, at 9:58 AM, Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca> wrote:
>
> > Hi Everyone,
> >
> > Following up on our Thursday discussion I'd like to set up a call with OPG this week – could 10am on Wednesday work? Should anyone from TD be included in this discussion as well?
> >
> > Thanks,
> > Kaitlin

From: Nelms, Scott (MOF)
Sent: July 5, 2017 5:49 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hume, Steen (ENERGY); Mayman, Gadi (OFA); Kandeepan, Ken (OFA); McKinlay, Tom (ENERGY); Montgomery, Kaitlin (MOF); ASHBOURNE, STEPHEN; Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Veinot, Cindy (TBS); Petsche, Nadine (TBS)
Cc: Karpowicz, Eva (MOF)
Subject: RE: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Good suggestion from Gadi – we should probably touch base internally in advance of meeting with OPG. I wonder if we could try for a quick 30 min phone call either tomorrow or Friday.

I will reach out to OPG to set something up for next week.

From: Nelms, Scott (MOF)
Sent: July 5, 2017 2:44 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Steen Hume (ENERGY) (Steen.Hume@ontario.ca); Mayman, Gadi (OFA) (Gadi.Mayman@ofina.on.ca); Kandeepan, Ken (OFA); McKinlay, Tom (ENERGY); Montgomery, Kaitlin (MOF); ASHBOURNE, STEPHEN
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi,

Please see the following comments from OPG / Torys on the guarantees.

I wonder if we are now at a point we should suggest sitting down with OPG on this perhaps early next week.

Thanks,
Scott

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: June 30, 2017 3:12 PM
To: Nelms, Scott (MOF)
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; HAHN PARKER Janet -TREASURY
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Scott:

Further to our discussion on the outstanding issues, please find below the comments from the Dealers on the "Markup" of the Provincial Protection and Assurance term sheet.
As noted below, the next step should be to get the appropriate parties from the Province to sit down with the dealers and OPG to go over the points and agree on a basis to move forward.
We should try to do that sometime next week. Let us know what times work on the Province side and we will coordinate with the Dealers & counsels.

John

From: Mansoori, Nina [mailto:nmansoori@torys.com]
Sent: Friday, June 30, 2017 12:24 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
Subject: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

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John/Les/Ken,

Please find below an issues list on the Province's comments on the Provincial Protection and Assurances Term Sheet (formerly the Provincial Support Agreement). This list reflects input from the dealers, Oslers and Torys. Please let us know if you have any additional comments or questions. If not, will you be reaching out to the Province to schedule a meeting next week (with the dealers, OPG, the Province and their counsels) to discuss these points? The dealers and their counsel don't see value in exchanging further drafts of the term sheet until they have had an opportunity to meet with the Province. We agree with this approach and are happy to assist in coordinating a meeting for next week. It would also be helpful to hear the Province's rationale and concerns for making some of these changes. Please let us know.

Many thanks,
Nina

1. The Servicing Guarantee:

(a) It is written in favour of only the financing entity. However, in the MTSA, we are asking for covenants directly in favour of Indenture Trustee. The Indenture Trustee/specified creditors should have the direct benefit

of the guarantee rather than relying on an indirect security interest in the servicing guarantee.

(b) It should be clarified that the servicing obligations of the electricity vendors are covered.

(c) If the guarantee is unenforceable, we should fall back to an indemnity, not a "functionally equivalent direct covenant" which is an uncertain concept.

(d) We don't want an exclusion for economic loss. That may cover whatever losses the specified creditors do suffer.

2. Change of Law.

(a) This should be written as a guarantee not an indemnity.

(b) It should be directly in favour of the Indenture Trustee/specified creditors and it should cover all the "finance amount" and not just funding obligations.

(c) We do not want the guarantee to be provided by another entity which is in turn guaranteed by Ontario. It should come directly from Ontario.

(d) There should be no "materiality" threshold for a claim. If obligations are not paid in full, then there should be a claim.

(e) The choice to assume or accelerate should be at the option of the holders, not the guarantor.

(f) If accelerated, then the 1% premium should be payable. This is a voluntary termination by the Province.

3. Undertaking Regarding Mismatches (market disruption)

(a) At best this structure defers the discussion of protection for a market disruption. At worst, it is impractical that take-out financing needs to be arranged in advance of each warehouse financing. We should rely on a definition of market disruption.

4. Approvals.

(a) Province to clarify what is contemplated under the heading "Approval Requirement". Is Province proposing

to approve any obligation incurred by the Financing Entity?

(b) Approval under Section 28 of the *Financial Administration Act* to be attained (in case the OFHPA is declared void in its entirety).

P. 416.865.7332 | F. 416.865.7380 | 1.800.505.8679
79 Wellington St. W., 30th Floor, Box 270, TD South Tower
Toronto, Ontario M5K 1N2 Canada | www.torys.com[torys.com]

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From: Ronald.Kwan@ofina.on.ca
To: Anna Strathy
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides
Date: Thursday, August 17, 2017 1:15:16 PM

Hi Anna,

Did you pass on Malle's comments to Gadi?

I know that he and Ken let OPG take the pen on this version, but Malle notes quite a few changes from the previous draft.

As a non-lawyer, I am not so embedded in the guarantee vs indemnity poin

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> <!--[if !supportLists]-->- <!--[endif]-->The last sentence in the opening italics that "the 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" has been deleted.
> <!--[if !supportLists]-->- <!--[endif]-->It has been changed back to a guarantee from an indemnity.
> <!--[if !supportLists]-->- <!--[endif]-->The Guarantee Activation Events have been expanded to include 5 as it seems that it has been

restructured so that some of what was previously in the “performance” guarantee is added into (E), i.e. IESO’s role.

<!--[if !supportLists]-->- <!--[endif]-->Concept of “materiality” has been deleted for (B) and (D).

<!--[if !supportLists]-->- <!--[endif]-->A concept of “any other discriminatory action including OEB Orders has been introduced.

<!--[if !supportLists]-->- <!--[endif]-->The Guarantee wording includes the word “assume” as opposed to just “pay”.

<!--[if !supportLists]-->- <!--[endif]-->Also, the guarantee has reverted to some of the very general wording that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

<!--[if !supportLists]-->- <!--[endif]-->Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?

<!--[if !supportLists]-->- <!--[endif]-->Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a

guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott’s group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province’s perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit

their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

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Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
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> Ken K
>
> ---
>
> **From:** LEE John -TREASURY [mailto:john.s.lee@opg.com]
> **Sent:** Monday, August 14, 2017 6:37 PM
> **To:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY)

<Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

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Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi

and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From:	Ronald Kwan
To:	Anna Strathy
Subject:	Fwd: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 4:53:26 PM

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.

- Concept of “materiality” has been deleted for (B) and (D).
- A concept of “any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word “assume” as opposed to just “pay”.
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing

note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet

and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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Sent: August 15, 2017 6:50 AM
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Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
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Subject: RE: EXTERNAL – Revised Term Sheet

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Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
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From:	Ronald Kwan
To:	John Kim
Cc:	Usman Zahid
Subject:	Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 5:08:03 PM

Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.
>
> I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?
>
> Thanks,
> Matt
>
> ---
>
> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
> **Sent:** Wednesday, August 30, 2017 3:08 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt… MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

<!--[if !supportLists]-->• <!--[endif]-->Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

<!--[if !supportLists]-->• <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?

<!--[if !supportLists]-->• <!--[endif]-->Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

<!--[if !supportLists]-->• <!--[endif]-->Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

<!--[if !supportLists]-->• <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…

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I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Thanks,
Matt Breadner on behalf of Anna Strathy

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To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

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Cc: Matthew Breadner
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Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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Thanks!
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From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Ronald Kwan
To:	John Kim
Subject:	Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 9:52:06 PM

Begin forwarded message:

From: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Date: August 30, 2017 at 6:48:27 PM EDT
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>, Matthew Breadner <Matthew.Breadner@ofina.on.ca>, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

You're right in your assumption, Matt, and the Deputy and Associate Deputy of TB are aware, and supportive, of our need to be on the 26th for exactly that reason, so I'm not sure why CQSD thinks our Minister would have to reach out to theirs. I'd be shocked if TB didn't make this a priority item for the 26th meeting, and didn't bump something else if the agenda is too packed..

We were actually originally intending to go to the first TB meeting in September, but Energy decided that we could wait until this meeting to line up with when they are going to TB for their FHP report back. It is absolutely essential that we make this meeting, or OPG may not be able to complete their initial financing for the Trust by calendar year-end (it's already tight) which, I understand, creates a potential accounting issue for the IESO if they still have the entire asset on their books at their year-end.

Thanks,
Gadi

On Aug 30, 2017, at 5:04 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept

26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

<!--[if !supportLists]-->● <!--[endif]-->Good point I will make the

change.

Are we taking out the term guarantee throughout the document?

- <!--[if !supportLists]-->● <!--[endif]-->No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- <!--[if !supportLists]-->● <!--[endif]-->Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- <!--[if !supportLists]-->● <!--[endif]-->Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- <!--[if !supportLists]-->● <!--[endif]-->Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- <!--[if !supportLists]-->● <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- <!--[if !supportLists]-->● <!--[endif]-->Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- <!--[if !supportLists]-->● <!--[endif]-->Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- <!--[if !supportLists]-->● <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

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I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number

of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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From:	John Kim
To:	Ronald Kwan
Cc:	Gavin He
Subject:	Fwd: Ontario Fair Hydro Plan
Date:	Friday, April 21, 2017 8:00:16 AM
Attachments:	Fair Hydro Plan Act (April 20 2017) Consultation v3.docx ATT00001.htm

---

FYI.

Begin forwarded message:

From: "Montgomery, Kaitlin (MOF)" <Kaitlin.Montgomery@ontario.ca>
Date: April 20, 2017 at 6:17:46 PM EDT
To: "Kim, John (OFA)" <John.Kim@ofina.on.ca>
Subject: Fw: Ontario Fair Hydro Plan

Hey John - here's the latest legislation

From: Kacaba, Jennifer (ENERGY)
Sent: April 20, 2017 5:59 PM
To: Rehob, James (ENERGY); Shear, Dan (ENERGY); Nelms, Scott (MOF); Hume, Steen (ENERGY); Christie, Tim (ENERGY); Leslie.Wong@opg.com; 'MCAULEY Tyler -LAWDIV' (tyler.mcauley@opg.com); John.S.Lee@opg.com; JUDY.WILSON@blakes.com; Stephen.Ashbourne@blakes.com; Bryson.Stokes@blakes.com; 'Alan Hibben' (alan.hibben@rogers.com); Brad.Purkis@tdsecurities.com; Maharukh.Hilloowala@tdsecurities.com; Michael.Wolff@tdsecurities.com; Harold.Holloway@tdsecurities.com; 'Niehaus, Katrina'; 'Benaiah, Ian'; Nevison, Gary (Gary.Nevison@tdsecurities.com); Thom, Trevor (Trevor.Thom@tdsecurities.com); Akman, Steven (Steven.Akman@tdsecurities.com); Thompson, Susan (Susan.Thompson@tdsecurities.com); Manii, David (david.manii@tdsecurities.com); 'Feldman, Michael'; 'Persaud, Donnie - Debt Capital Markets'; 'Hill, Krista'; 'Turnbull, Vickie'; 'Dal Bello, David'; 'Mansoori, Nina'; 'Sebastiano, Rocco'; 'Fitzpatrick, Michael F.'; michael.boll@ieso.ca; Kim Marshall; Veinot, Cindy (TBS); 'Glenn Zacher'; 'O'Brian, Adam'; 'Emes, Aaron'; 'Peter Hamilton'; 'JORDA Jenny -FIN & C CTRL'; maryanne.aldred@ontarioenergyboard.ca; Petsche, Nadine (TBS); rramchandani@torys.com
Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); 'Myers, Jonathan'; Suzie Gignac (suzie.r.gignac@ca.ey.com); Blake Langill (blake.w.langill@ca.ey.com); LeeAnne.Probert@ca.ey.com; Kandeepan, Ken (OFA); Hosick, Sarah (TBS); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Ontario Fair Hydro Plan

All - Please find attached the next turn in the consultation draft (v.3) of the proposed legislation. We have been working to address the feedback that you provided earlier in the week. A number of points remain in progress. As with the earlier versions, by sharing this document, we hope to continue to advance our discussions.

Our timeline has been extended and we are now working to a pens down date of April 28th. We will not get another extension. Accordingly, we ask for your detailed, written comments on the draft, which we require no later than Sunday at noon.

We will continue to work on the bill in the interim, so earlier instructions are helpful to us. With your input on this timeline, we expect to be able to provide one more circulation around Tuesday or Wednesday next week.

We have not had the opportunity to add notes or to update our crosswalk to the Blakes summary document.

We look forward to receiving your written comments.

Jennifer

Jennifer J. Kacaba
Counsel
MAG Civil Law Division
Ministries of Energy / Economic Development & Growth /
Research, Innovation & Science / Infrastructure / Accessibility
56 Wellesley Street West, 18th Floor.
Toronto
M7A 2E7
(416) 212-4867

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From: Kacaba, Jennifer (ENERGY)
Sent: April 17, 2017 12:00 PM
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Subject: RE: Ontario Fair Hydro Plan

Please find attached a further turn of the consultation draft. This document continues to be a work in progress. We have not had the opportunity to add notes or update our tracking table. We also have not yet considered the comments that we received this morning. We look forward to seeing you at 1.

Jennifer

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Subject: Ontario Fair Hydro Plan

All - Please find attached the draft “Intergenerational Fairness in Hydro Rates Act, 2017”. A tremendous amount of work has gone into getting to this draft and much more work is required to get this ready for the House. The goal of sharing this document now is to further the process we have engaged in over the last weeks. In the attached, we have included notes to try to address where the drafting is not yet consistent with our thinking. These notes are neither comprehensive nor complete. They are intended only as flags and as colour to the draft. We have not forgotten the comments that you have already provided and we are continuing to working through the translation of the commercial terms we have been discussing into legislative language.

For ease of reference, included with the draft bill are the partially updated Blakes’ summary, a chart that attempts links the articles in that document to the sections of the bill (which is imperfectly numbered at best) and excerpts from the Electricity Act and the Ontario Energy Board Act, related to the consequential amendments.

In your review, please focus on the broad stroke concepts, rather than the minutia, and keep in mind the cascade of instruments that will be required – legislation first, then regulations and finally commercial agreements. We look forward to discussing the broader concepts on Monday

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Version 3

This confidential draft document is provided for discussion purposes only. It should not be construed as representing the position adopted by the Government of Ontario on any of the topics included or not included in this document. The notes included in this document are intended only to help facilitate a discussion of the topics to which they relate. Any potential legislation is subject to the approval of the Ontario Legislature.

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A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL
TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing sites and facilities in the Province for the generation of electrical energy and the production therefrom,[2] and conservation and demand management.

The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[1] Note: please see the preamble of the *Green Energy Act, 2009.*
[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".
[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

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CONTENTS

PART I
GENERAL

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT

6. Fair adjustment, May 1, 2017 to April 30, 2018
7. Fair adjustment, May 1, 2018 to April 30, 2022

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay clean energy adjustment
9. Irrevocability of clean energy adjustment
10. Determination of clean energy adjustment
11. IESO to issue remittance notice to electricity vendors
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

18. Interpretation, portion of regulatory asset
19. Variance account
20. IESO funding shortfall
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Interpretation, investment asset
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment asset owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

103. Commencement
104. Short title

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Schedule 1 Estimated finance amount

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated costs to be incurred by the IESO under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management, including storage,

(iii) energy efficiency,

(iv) 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, or

(v) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

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(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means the IESO, a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

"fair adjustment" means the determination of the rate payable for electricity in accordance with Part II; ("French")

"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner or an investment asset owner under section x; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means, in respect of a reference period, the amount determined under section 20xx for the reference period; ("French")

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

[4] Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"investment interest" means an ownership interest in the investment asset, which entitles an investment asset owner to the rights and benefits specified in the agreement under which the ownership interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the IESO funding shortfall; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

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(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

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Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

    i. The commodity price of the electricity used during the invoice period.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

    iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

    v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

    i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

    ii. A charge labelled as a "specific service charge" or "retail service charge".

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iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month.

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of its interest in the regulatory asset with the result of a named person becoming the owner of an investment interest.

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.

PART II
FAIR ADJUSTMENT

[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the average monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] the rate for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount.

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

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Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation applicable at the time when the payment is due; and

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

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Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall be determined as follows:

1. Calculate the estimated finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. Add the true up amount for the reference period, as determined in accordance with the prescribed method, to the estimated finance amount calculated under paragraph 1.

True up amount

(2) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

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i. differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

ii. variations in billings due to variations in electricity consumption.

IESO to issue remittance notice to electricity vendors

11xx. (1) The IESO shall, in accordance with the regulations, issue a remittance notice to each electricity vendor for the electricity vendor's portion, as determined in accordance with the regulations, of the clean energy adjustment in respect of a reference period.

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment from electricity vendors [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of collecting those accounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (6), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Collection of outstanding amounts, regulatory asset

(6) If the total clean energy adjustment payable by specified consumers in respect of a reference period is less than the amount contemplated to be payable under the

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applicable fair allocation calculation made by the Financial Services Manager under Part IV, the IESO may collect the difference from specified consumers.

Electricity vendor to invoice specified consumers

12xx. (1) The electricity vendor shall issue an invoice to each specified consumer for the consumer's amount of the clean energy adjustment in accordance with the regulations.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the IESO and the investment asset owners, collect the clean energy adjustment from specified consumers [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor other than the IESO shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the regulations.

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Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

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2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be borne by the specified consumers in respect of clean energy costs [in the absence of this Act].

2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

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1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers for each reference period.

    iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

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FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare and provide to the Minister a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred or potential transfers should be made for the purposes of this Act.

Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align the expected finance amount determined under Schedule 1 that would become due and payable during a reference period with the fair allocation amount determined for the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment for the reference period.

2. Incurrences and transfers should be implemented in a manner that, as the Financial Services Manager considers to be reasonable, is cost effective and reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

[Note for reference: List of items for consideration in regulation: (a) anticipated IESO funding shortfalls and related transfer amounts; (b) the maturities of funding obligations; (c) the availability of refinancings, redemption opportunities and liquidity terms and conditions in order to achieve the objective contemplated in section X(1)(a); (d) the availability of currency and interest rate hedging facilities for the purpose of mitigating any differences between the expected finance amounts becoming due and payable during a reference period and the fair allocation amount for the reference period; (d) the amount and potential variability of interest rates and related financing costs; (e) available capital markets in which funding obligations may be incurred.]

Amendments to approved plan

(3) The Financial Services Manager may amend the Financing Plan at any time, without the approval of the Minister, subject to the requirements set out in this section.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in a clean energy adjustment for the reference period unless,

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(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount for the reference period and the amount of the fair adjustment for the reference period].

Confidentiality of plan

(4) The Financing Plan is deemed to be a record subject to section 17 of the *Freedom of Information and Protection of Privacy Act.*

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations and make transfers in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, section [paramountcy of funding obligations] applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish one or more financing entities that may incur funding obligations and make transfers.

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

Effect of amendment to Fair Allocation Plan

(4) No funding obligation incurred and no transfer made by the Financial Services Manager shall be affected by any inconsistency with the Financing Plan, including any inconsistency with the principles set out in section X.

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PART V
THE REGULATORY ASSET

Interpretation, portion of regulatory asset

18xx. If a transfer under this Part provides for the transfer of a portion of the regulatory asset, any references in this Part to the regulatory asset are deemed to be references to the portion of the regulatory asset transferred.

[Note: This is meant to assist with clarity in the subsequent provisions.]

Variance account

19xx. (1) The Board shall issue an accounting order to authorize the IESO to do the following:

1. Create a variance account for the purposes of this Act.

2. Record the IESO funding shortfall in the variance account from time to time.

3. Recover the IESO funding shortfall in accordance with section X and the regulations.

No hearing

(2) The order of the Board shall be made in writing and without holding a hearing.

No appeals, etc.

(3) No appeal lies from the order of the Board.

IESO funding shortfall

20xx. (1) The IESO shall determine the IESO funding shortfall for each month in the following manner:

1. Calculate the sum of all invoice amounts issued to specified consumers for the month if Part II of this Act did not apply.

2. Calculate the sum of all invoice amounts issued to specified consumers for the month.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1, and make any other adjustments as may be prescribed.

Same

(2) To the extent that the IESO funding shortfall for any month is based on an estimate of the electricity used by specified consumers, the IESO shall record an

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adjustment in the variance account in the following month to reflect the difference between the estimate and the electricity actually used by specified consumers.

Recording of IESO funding shortfall

(3) IESO shall record the IESO funding shortfall from time to time, including adjustments resulting from the exercise of the right of recovery under section 21 and any transfer under section 22, in the variance account.

Recording determinative

(4) A recording of the IESO funding shortfall in the variance account is determinative of the amount of IESO funding shortfall at the time of the recording.

Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the IESO funding shortfall.

Same, restrictions

(2) The IESO's right to recover the IESO funding shortfall under subsection (1) is subject to the following:

1. The IESO shall not be entitled to collect the IESO funding shortfall from specified consumers before May 1, 2022.

2. The process by which the IESO may recover the IESO funding shortfall shall be established by the Board, having regard to the amount of the IESO funding shortfall from time to time and the [fair allocation calculation].

3. Such other restrictions as may be prescribed.

Transfer of regulatory asset

22xx. (1) The IESO may transfer all or a portion of the regulatory asset to any financing entity under the Financing Plan, which transfer creates the investment asset.

Same

(2) Upon receipt of any payment in consideration for the transfer,

(a) the IESO shall record the payment as a reduction of the IESO funding shortfall in the variance account; and

(b) unless otherwise provided for in this Act, the IESO shall have no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

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Same

(3) Upon transfer, the financing entity becomes an investment asset owner and acquires an investment interest.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment asset owner of the regulatory asset, and the investment asset created by the transfer shall be immediately vested in the transferee.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Interpretation, investment asset

24xx. If a transfer under this Part provides for the transfer of an investment asset, any references in this Part to the investment interest are deemed to be references to the specific investment interest transferred.

Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests without duplication:

1. The right to impose, bill, invoice, collect and receive the clean energy adjustment from specified consumers, including the right to determine the amount of the clean energy adjustment in accordance with this Act.

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2. The right to receive and collect all amounts in respect of the clean energy adjustment that are imposed, billed and invoiced under this Act, including any amounts that all amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge, bill and invoice the clean energy adjustment.

5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of the clean energy adjustment.

6. All rights of any kind (whether in tort, contract or otherwise) that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset owner's regulatory asset.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether such revenue, collections, claims, payments and proceeds are imposed, invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

No set off, etc.

(2) The investment asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, an agent of the investment asset owner or an owner of distribution system assets in the Province;

(b) in connection with any default, bankruptcy, reorganization or other insolvency proceeding of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

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Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with section [xx] of the *Personal Property Security Act*.

Collective action required

(4) If the investment asset owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment asset owner collectively and in coordination with all other investment asset owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment asset owner as a collective in accordance with its terms. [Note: Successors may need to be addressed here.]

Transfer of investment interest

26xx. An investment asset owner may transfer all or a portion of its rights and interests in an investment interest to any other investment asset owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the owner of the investment interest acquired a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment asset owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (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 investment asset owner shall have priority over any liens in favour of such other persons.

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Investment asset owner may grant security interest

28xx. (1) An investment asset owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by the owner of an investment interest to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment asset owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [investment asset account] or other account of any electricity vendor, the IESO, an agent of an electricity vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

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PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment asset owner or a secured party, order the sequestration and payment of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment asset owner or secured party by any person or entity authorized to collect the clean energy adjustment, defaults on any required remittance of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Same

(3) An order under subsection (1) shall remain in full force and effect despite any bankruptcy, reorganization or other insolvency proceedings with respect to the person or entity who is subject to the order.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

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No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required with respect to the actions to be taken in compliance with this Act, including actions to be taken under the Financing Plan or in relation to the establishment of the Fair Allocation Plan.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under this section unless the prescribed requirements, if any, are satisfied.

Non-application, Financial Administration Act, s. 28[7]

37xx. Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.

Regulations

38xx. The Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act….

(b) prescribing types of payment obligations that constitute funding obligations;

(a) governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment.

(b) governing the inclusion of adjustments under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments.

[7] Note - see s. 51 of the Electricity Act, 1998

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[Note: reg-making powers to be dealt with in subsequent draft]

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under that Act and engaging in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including the following:

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1. Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by the *Ontario Fair Hydro Plan Act, 2017* subject to the right of reimbursement from amounts available to the financing entity.

2. Preparing reports on behalf of the financing entity.

3. Enforcing the rights of the financing entity.

4. Signing offering documents as sponsor or otherwise on behalf of the financing entity.

5. Exercising the powers and performing the duties of the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*

6. Issuing non-equity securities in Ontario Power Generation Inc. or on if its subsidiaries, for the purpose of raising funds to acquire debt or equity interests in a financing entity whose activities are limited to the incurrence of funding obligations pursuant to the *Ontario Fair Hydro Plan Act, 2017*.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

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[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* would be amended by adding the following paragraph:

6. To facilitate the implementation of the [TBD - language should link up with language from new Act.]

205x. Section 70 of the Act would be amended by adding the following subsection

[Note - still need to draft new subs. 70 (2.1)]

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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SCHEDULE 1
ESTIMATED FINANCE AMOUNT

Estimated finance amount

1. The estimated finance amount for a reference period shall be determined by estimating, prior to the start of a reference period, the sum of the following:

1. The sum of all amounts that are payable during the reference period by or on behalf of the investment asset owners to satisfy an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase, of all or a portion of the amount advanced to the owners under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

2. The sum of all funding costs for the reference period, determined as follows:

    i. Calculate the aggregate of all interest, scheduled principal and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of investment assets owners during the reference period in respect of all funding obligations, including such amounts as may be prescribed.

    ii. Calculate the sum of the aggregate of all amounts received by or on behalf of investment asset owners during the reference period in respect of all funding obligations and such other amounts as may be prescribed.

    iii. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

3. The sum of all amounts payable during the reference period by or on behalf of investment asset owners to redeem, prepay or repurchase a funding obligation, including any premium, make-whole or other amount becoming payable under a funding obligation to give effect to the redemption, prepayment or repurchase.

4. The balance of the finance reserve at the end of the reference period, as determined under section 3 to this Schedule.

5. The sum of any other amounts payable during the reference period by or on behalf of investment asset owners that were incurred or committed to directly or indirectly in connection with the incurrence of funding obligations under the Financing Plan during the reference period, which may include such amounts as may be prescribed.

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Funding costs

2. For the purposes of paragraph 2 of section 1 to this Schedule, the funding costs for a reference period are determined by taking the following steps:

Finance reserve balance

3. (1) For the purposes of paragraph 4 of section 1 to this Schedule, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

1. Calculate the sum of all amounts deposited by or on behalf of investment asset owners during the reference period in order to pre-fund, collateralize, over-collateralize or establish reserves for the ultimate payment of funding obligations or for related contingencies specified in the Financing Plan.

2. Calculate the sum of all amounts withdrawn by or on behalf of investment asset owners during the reference period from deposits previously made as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

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From:	Ronald Kwan
To:	John Kim
Subject:	Fwd: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Wednesday, August 16, 2017 2:00:24 PM
Attachments:	TBMBC Submission Provincial Guarantee (OFA) 08162017.doc ATT00001.htm

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Hi John,

Comments please.

Thanks,
Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 16, 2017 at 1:48:47 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>, Carlos Yep <Carlos.Yep@ofina.on.ca>, James Devine <James.Devine@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Subject: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc**
>
> Good afternoon,
>
> Please find attached, a draft TB Submission on the Provincial Guarantee, for your review and comment. The Ministry of Energy is expected to bring this submission forward, with a status update on the FHP and input from the OFA. While the TB meeting date is still TBD, Gadi asked that we draft of input to the submission before the end of the week (when Gadi, Ron, and Ken leave on vacation).
>
> Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.
>
> **Your comments by tomorrow noon** would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.
>
> Thanks, Anna
>
> --
> Anna Strathy
> Ontario Financing Authority
> 416.325.8032 | anna.strathy@ofina.on.ca

TREASURY BOARD / MANAGEMENT BOARD OF CABINET
REQUEST ASSESSMENT NOTE

Ministry:	Energy
Meeting Date:	September 12, 2017 (TBC)
Agenda Class:	
Last reviewed by: NA	**Tracking to:** Cabinet (September 13, 2017)

[

SUBMISSION TITLE:	Ontario Fair Hydro Plan Update and Provincial Guarantee

I. DECISION BEFORE THE BOARD

- [Energy item…Receive a report back…]
- Whether the Government of Ontario should provide a guarantee to the OPG Financing Entity and its prospective debt holders, providing that under certain circumstances, the Province would assume the funding obligations of the Financing Entity.

II. RECOMMENDATIONS:

• [Energy item… Receive a report back…]	
• Provide a guarantee to the OPG Financing Entity under the terms set out in Appendix C	*Approve*

III. FINANCIAL SUMMARY

$ Millions	**2013-14**	**2014-15**	**2015-16**
Initiative cost requested	0.0	0.0	0.0
Initiative cost recommended	0.0	0.0	0.0
Recommended program base	0.0	0.0	0.0
Offset Recommended (Specify Ministry/Program)	0.0	0.0	0.0
Total Fiscal Impact	0.0	0.0	0.0

IV. KEY COMMENTS AND CONSIDERATIONS

[Energy item… report back…]

- To purchase the regulatory asset from IESO, the OPG Financing Entity must borrow from the capital markets; however, investors have indicated that without adequate protection against risk, the debt would not be financeable.

- OPG is requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity;
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

- The guarantee would continue until all obligations of the Financing Entity are fully discharged.

Risks:

- If the guarantee is not approved, the Financing Entity is unlikely to be able to raise sufficient financing from capital markets to purchase the regulatory asset from IESO.

- If the guarantee is approved, the Government of Ontario takes on a contingent liability, equal to the peak accumulated debt, estimated at $24B, and associated interest payments, estimated at [x].. Should the provincial guarantee be triggered by one of the events set out above, the fiscal impact to the Province would be [xxx].

Name of analyst:		**Phone number:**	
Date:		**Log number:**	
Branch / Division:			

DRAFT

APPENDIX A: PROPOSED MINUTE

i) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix C.

ii) Note the Minister of Finance will sign a Section 28, approving a contingent liability [xxx]

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FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE					TABLE B1
		Fiscal Plan Basis			*Appropriations Basis*
$ Millions		**2013-14**	**2014-15**	**2015-16**	**2013-14**
Initiative cost recommended		0.0000	0.0000	0.0000	
Expense changes:					
Operating item	Oper	0.0000	0.0000	0.0000	0.0000
Capital item	Cap	0.0000	0.0000	0.0000	00000
Revenue changes:					
Revenue increase/offset		0.0000	0.0000	0.0000	
Revenue decrease		0.0000	0.0000	0.0000	
Total Fiscal Impact (draw from c-funds)		**0.0000**	**0.0000**	**0.0000**	**0.0000**

DRAFT

APPENDIX C: SCHEDULES

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.*

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; (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; (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; (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 judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and

DRAFT

	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.]**
Guarantee:	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

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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

DRAFT

From: Ronald Kwan
To: John Kim
Subject: Fwd: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Tuesday, September 12, 2017 12:35:33 PM

Begin forwarded message:

From: Anna Strathy <Anna.Strathy@ofina.on.ca>
Date: September 12, 2017 at 12:34:29 PM EDT
To: "Anthony Reiss (MGS)" <Anthony.Reiss@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, James Devine <James.Devine@ofina.on.ca>, Carlos Yep <Carlos.Yep@ofina.on.ca>, "Vivienne Skoberne (MOHLTC)" <Vivienne.Skoberne@ontario.ca>, "Smith, Stephanie M. (MOF)" <Stephanie.M.Smith@ontario.ca>, Gavin He <Gavin.He@ofina.on.ca>, "Tobias P. Whitfield (MOF)" <Tobias.Whitfield@ontario.ca>, "Malle Hanslep (MOF)" <Malle.Hanslep@ontario.ca>, "Keley Katona (ENERGY)" <Keley.Katona@ontario.ca>, "Jonathan Tekle (CAB)" <Jonathan.Tekle@ontario.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anthony, will make those three updates you've requested. With respect to your question:

Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.

Thank you, Ken, for the wording.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, September 12, 2017 12:31 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF)

<Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; He, Gavin (OFA) <Gavin.He@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC

meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From: Ronald Kwan
To: John Kim; Francisco Chinchon
Subject: Guarantee
Date: Friday, April 21, 2017 2:41:15 PM
Attachments: Re Guarantee.msg
Re Guarantee.msg
Fw Guarantee.msg
RE Guarantee.msg
Fw Guarantee.msg

FYI

From: Gadi Mayman []
To: Malle Hanslep (MOF) [Malle.Hanslep@ontario.ca]; Anna Strathy [Anna.Strathy@ofina.on.ca]
CC: Michael Waterston (MOF) [Michael.Waterston@ontario.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]; Mike Manning [Mike.Manning@ofina.on.ca]
Subject: Re: Guarantee
Date: Friday, April 21, 2017 14:37:49

I think that some combination of Mike, Ron and Ken would make sense as the people at the OFA to speak with, so I've copied them on this response.

Gadi

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:35 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the

wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don't' know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have

received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and

transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

This message, including any attachments, is subject to solicitor-client privilege and may contain confidential information intended only for the individuals named above. Any distribution, copying or disclosure without permission is strictly prohibited.

From: Gadi Mayman []
To: Malle Hanslep (MOF) [Malle.Hanslep@ontario.ca]; Anna Strathy [Anna.Strathy@ofina.on.ca]
CC: Michael Waterston (MOF) [Michael.Waterston@ontario.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]; Mike Manning [Mike.Manning@ofina.on.ca]
Subject: Re: Guarantee
Date: Friday, April 21, 2017 14:39:12

This is the guarantee that the Federal government gave to Newfoundland Hydro (Nalcor) for the Muskrat Falls debt issue.

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:37 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Gadi: Also Carolyn mentioned a Nalcor guarantee which might be similar to what is being requested here?

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:36 PM
To: Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don't' know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

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From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)

Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by

25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow “the Minister” to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn’t talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We’re happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From: Gadi Mayman []
To: Mike Manning [Mike.Manning@ofina.on.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]
CC: Anna Strathy [Anna.Strathy@ofina.on.ca]
Subject: Fw: Guarantee
Date: Friday, April 21, 2017 14:39:40
Attachment 1: LAWS OF THE STATE OF NEW YORK - CHAPTER 173 OF 2013.docx
Attachment 2: summary of securitization provisions in LIPA Reform Act.docx
Attachment 3: Summary of Duke Energy Securitization.docx
Attachment 4: Moody's - Securities Backed by Utility Cost Recovery Charges Jun 2015.pdf
Attachment 5: Moody's - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf
Attachment 6: Moody's - Long Island Power Authority Utility Cost Recovery Bonds - Seri....pdf
Attachment 7: Moody's - Duke Energy Florida Project Finance, LLC Series A Bonds.pdf
Attachment 8: S&P - List of S&P Rated Stranded Cost Transactions (2013).pdf
Attachment 9: S&P - Securitizing Stranded Costs_S&P Criteria (2001).pdf
Attachment 10: Fair Hydro Plan Act (April 20 2017) Consultation v3.docx

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From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 2:38 PM
To: Gadi Mayman; Anna Strathy
Cc: Tobias P. Whitfield (MOF); Michael Waterston (MOF)
Subject: FW: Guarantee

Some more information sent by Carolyn.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke):
: http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0366/Sections/0366.95.html[leg.state.fl.us] .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

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Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

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Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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ASSEMBLY BILL #**A8073** SAME AS SENATE BILL #**S5844**

LAWS OF NEW YORK, 2013

CHAPTER 173

AN ACT to amend the public service law, the public authorities law, the executive law and the education law, in relation to the powers and duties of the department of public service and the Long Island power authority; to repeal subdivision (u) of section 1020-f of the public authorities law relating to general powers of the authority; and providing for the repeal of certain provisions upon expiration thereof (Part A); and in relation to the issuance of securitized restructuring bonds to refinance the outstanding debt of the Long Island power authority (Part B)

Became a law July 29, 2013, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation relating to issues deemed necessary by the state. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with a particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found.

Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 3 of the public service law, as amended by chapter 8 of the laws of 2012, is amended and a new section 3-b is added to read as follows:

§ 3. Department of public service. [~~1.~~] There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.

[~~2. The department shall, upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of said authority pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or~~

EXPLANATION--Matter in ***italics*** is new; matter in brackets [-] is old law

to be omitted.

~~CHAP. 173 2~~

~~by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the Long Island power authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.~~]

§ 3-b. Long Island office of the department.

1. There is hereby established in the department an office to review and make recommendations with respect to the operations and terms and conditions of service of, and rates and budgets established by, the Long Island power authority and/or its service provider.

2. Definitions. As used or referred to in this section:

(a) "Authority" means the Long Island power authority.

(b) "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract. However, the service provider and any affiliate of the service provider with whom the authority or service provider contracts to provide services associated with the authority's electric transmission and distribution system shall not be considered an electric corporation under this chapter.

(c) "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the Long Island power authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

3. General powers. In undertaking the requirements of this section, subject to subdivisions (u) and (bb) through (hh) of section one thousand twenty-f of the public authorities law, the department shall be empowered and authorized to:

(a) Review and make recommendations to the board of the Long Island power authority with respect to the rates and charges, including charges related to energy efficiency and renewable energy programs, to be established by the authority and become applicable on or after January first, two thousand sixteen pursuant to subdivision (u) of section one thousand twenty-f of the public authorities law.

(i) The purpose of such review is to make recommendations designed to ensure that the authority and the service provider provide safe and adequate transmission and distribution service at rates set at the lowest level consistent with sound fiscal operating practices.

(ii) The department's recommendations shall be designed to be consistent with ensuring that the revenue requirements related to such rate review are sufficient to satisfy the authority's obligations with respect to its bonds, notes and all other contracts.

(iii) In the context of such review, the department may not make any recommendation that would modify the compensation or fee structure included within the operations services agreement.

(iv) In undertaking such review and in making recommendations related to the proposed rates and charges, the department shall establish standards,

policies and procedures that, at a minimum, provide for public statement and evidentiary hearings and participation of intervenors and other parties, and ensure that any final recommendations related to the proposed rates and charges are provided to the authority within two hundred forty days of the filing with the department of such plan.

(v) The parties to any such rate review proceeding shall include, but not be limited to, department staff, the authority, the service provider and, to the extent it deems necessary or appropriate, the utility intervention unit.

(b) Review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the service provider as in the department's judgment allows for safe and adequate service.

(c) Annually review the emergency response plan of the authority and the service provider in accordance with the following requirements:

(i) Examine and determine whether the emergency response plan is consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of this chapter and any regulations or orders promulgated thereto, and to recommend amendments of same; and

(ii) Review and make recommendations to the authority with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and its service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, the reasonableness of costs associated with such emergency response, the costs, if any, that were unreasonably and imprudently incurred by the service provider, and whether the service provider would be liable for any such costs pursuant to the terms and conditions of the operations services agreement.

(d) Upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of the authority and service provider pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department

according to such terms as the department may determine are necessary and reasonable.

(e) Accept, investigate, mediate to resolve and make recommendations to the Long Island power authority and/or the service provider regarding the resolution of complaints from consumers in the authority's service

territory relating to, among other things, the provision of electric service provided by the service provider and/or the authority.

(f) Review the net metering program implemented under subdivision (h) of section one thousand twenty-g of the public authorities law and make recommendations designed to ensure consistency with the requirements of sections sixty-six-j and sixty-six-l of this chapter, and any regulations and orders adopted thereto.

(g) Review and make recommendations with respect to any proposed plan submitted by the Long Island power authority and/or the service provider related to implementation of energy efficiency measures, distributed generation or advanced grid technology programs having the purpose of providing customers with tools to more efficiently and effectively manage their energy usage and utility bills, and improving system reliability and power quality.

(h) Review the data, information and reports submitted pursuant to subdivision (hh) of section one thousand twenty-f of the public authorities law and other pertinent information related to the metrics in the operations services agreement, the Long Island power authority's evaluation of such data, information and reports, and make recommendations to the authority with respect to the service provider's annual incentive based compensation within thirty days of receipt of such evaluation and information.

4. Review and inspection. To undertake the requirements of subdivision two of this section, the department shall be authorized to inspect all premises and facilities owned or operated by the authority and the service provider, review all books and records of the authority and the service provider, interview all appropriate personnel, and require annual reporting consistent with the requirements of subdivision six of section sixty-six of this chapter and any regulations and orders adopted thereto; provided, however, that this authority shall not extend to affiliates of the service provider.

§ 2. Subdivision 2 and paragraph (b) of subdivision 6 of section 18-a of the public service law, subdivision 2 as amended by section 2 of part NN of chapter 59 of the laws of 2009 and paragraph (b) of subdivision 6 as amended by section 1 of part BB of chapter 59 of the laws of 2013, are amended and a new subdivision 1-a is added to read as follows:

1-a. All costs and expenses of the department related to the department's responsibilities under section three-b of this chapter shall be paid pursuant to appropriation on the certification of the chairman of the department and upon the audit and warrant of the comptroller. For the state fiscal year beginning on April first, two thousand fourteen and each state fiscal year thereafter, payments are to be made from all moneys collected from the Long Island power authority pursuant to this section. The total of such costs and expenses shall be assessed on such authority in the manner provided in subdivisions two, three and four of this section.

2. (a) The chairman of the department shall estimate prior to the start of each state fiscal year the total costs and expenses, including the compensation and expenses of the commission and the department, their officers, agents and employees, and including the cost of retirement contributions, social security, health and dental insurance, survivor's benefits, workers' compensation, unemployment insurance and other fringe

benefits required to be paid by the state for the personnel of the commission and the department, and including all other items of maintenance and operation expenses, and all other direct and indirect costs. Based on such estimates, the chairman shall determine the amount

to be paid by each assessed public utility company **and the Long Island power authority** and a bill shall be rendered to each such public utility company **and authority**.

(b) The bill for each public utility company **and the Long Island power authority** shall be rendered on or before February first preceding each fiscal year, and shall be for the amount equal to the product of the aforesaid estimated costs and expenses of conducting the department's and commission's total operations during the fiscal year for which billing is being made multiplied by the proportion which compares:

(1) the gross operating revenues, over and above five hundred thousand dollars, for that utility company **or the authority** derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to:

(2) the total of the gross operating revenues, derived from intrastate utility operations for all utility companies **and the authority** in the state which revenues are included under subparagraph one of this paragraph.

For the purposes of calculating the commodity cost component of its gross operating revenue, where the utility delivers to end-use customers electricity and/or natural gas commodities that are sold to such customers by a third party, such utility shall include in its revenues an estimate of the sales revenue for the electric and/or natural gas commodities that it delivers, including all such commodities sold to end-use customers by third parties, in such manner as to assure that all end-use delivery customers, regardless of the entity from which they purchase their electric and/or natural gas commodities, bear a fair and proportionate share of the assessment imposed herein, as the commission may determine.

(c) The minimum assessment for any utility company**, as well as the Long Island power authority,** whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

(d) The amount of such bill for fiscal years beginning on or after April first, nineteen hundred eighty-three so rendered shall be paid by such public utility company **and such authority** to the department on or before April first; provided, however, that [~~a~~] **any such** utility company **or such authority** may elect to make partial payments for such costs and expenses on March tenth of the preceding fiscal year and on September tenth of such fiscal year. Each such partial payment shall be a sum equal to fifty percentum of the estimate of costs and expenses to be assessed against such utility company **or authority** under the provisions of this subdivision and shall not be less than two hundred dollars.

(e) During the course of any state fiscal year, the chairman may increase or decrease the estimate of costs and expenses. In such case, revised bills shall be sent to each public utility company **and such authority**, and such increase or decrease shall be equally apportioned against the remaining payments for such fiscal year.

(f) On or before October tenth of each year, the chairman shall compute the actual costs and expenses of the department and the commission and adjustments or other corrections as needed for the preceding state fiscal year and, after deducting the amounts recovered pursuant to subdivisions three and four of this section, shall, on or before October twentieth, send to each public utility company **and/or the authority** affected thereby a

statement setting forth the amount due and payable by, or the amount standing to the credit of, such public utility company **and/or the authority**. Any amount owing by any public utility company

and/or the authority shall be paid not later than thirty days following the date such statement is received. Any such amount standing to the credit of any public utility company shall be refunded by the commission or, at the option of such utility company, shall be applied as a credit against any succeeding payment due.

(g) The total amount which may be charged to any public utility company **and the Long Island power authority** under authority of this subdivision for any state fiscal year shall not exceed one per centum of such public utility company's **or authority's** gross operating revenues derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman; provided, however, that no corporation or person that is subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the general assessment provided for under this subdivision.

Notwithstanding the provisions of subdivision one of this section, for telephone corporations as defined in subdivision seventeen of section two of this article, the total amount which may be charged such corporations for department expenses under the authority of subdivision one of this section for any state fiscal year shall not exceed one-third of one percentum of such corporation's gross operating revenue, over and above five hundred thousand dollars, derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman.

(h) On-bill recovery charges billed pursuant to section sixty-six-m of this chapter shall be excluded from any determination of an entity's gross operating revenues derived from intrastate utility operations for purposes of this section.

(b) The temporary state energy and utility service conservation assessment shall be based upon the following percentum of the utility entity's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, minus the amount, if any, that such utility entity is assessed pursuant to subdivisions one and two of this section for the corresponding state fiscal year period: (1) two percentum for the state fiscal year beginning April first, two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) one and three-quarters percentum for the state fiscal year beginning April first, two thousand fifteen; and (3) one and one-half percentum for the state fiscal year beginning April first, two thousand sixteen. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, utility entities shall make a payment equal to one-half of the assessment paid by such entities pursuant to this paragraph for the state fiscal year beginning on April first, two thousand sixteen. With respect to the Long Island power authority, the temporary state energy and utility service conservation assessment shall be based upon the following percentum of such authority's gross operating revenues derived from intrastate utility operations in the last preceding calendar year**, minus the amount, if any, that such authority is assessed pursuant to subdivisions one-a and two of this section for the corresponding state fiscal year period**: (1) one percentum for the state fiscal year beginning April first,

two thousand thirteen and the state fiscal year beginning April first, two thousand fourteen; (2) three- quarters of one percentum for the state fiscal year beginning April

first, two thousand fifteen; and (3) one-half percentum for the state fiscal year beginning April first, two thousand sixteen**; provided, however, that should the amount assessed by the department for costs and expenses pursuant to such subdivisions equal or exceed such authority's temporary state energy and utility service conservation assessment for a particular fiscal year, the amount to be paid under this subdivision by such authority shall be zero**. With respect to the temporary state energy and utility service conservation assessment to be paid for the state fiscal year beginning April first, two thousand seventeen and notwithstanding clause (i) of paragraph (d) of this subdivision, on or before March tenth, two thousand seventeen, the Long Island power authority shall make a payment equal to one-half of the assessment it paid for the state fiscal year beginning on April first, two thousand sixteen. No corporation or person subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the temporary state energy and utility service conservation assessment provided for under this subdivision. Utility entities whose gross operating revenues from intrastate utility operations are five hundred thousand dollars or less in the preceding calendar year shall not be subject to the temporary state energy and utility service conservation assessment. The minimum temporary state energy and utility service conservation assessment to be billed to any utility entity whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

§ 3. Section 1020-b of the public authorities law is amended by adding two new subdivisions 23 and 24 to read as follows:

23. "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract.

24. "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

§ 4. Section 1020-d of the public authorities law, as added by chapter 506 of the laws of 1995, is amended to read as follows:

§ 1020-d. [~~Trustees~~] **Board of trustees**.

1. [~~The~~] **Starting on January first, two thousand fourteen, the board of the** authority shall **be constituted and** consist of [~~fifteen~~] **nine** trustees all of whom shall be residents of the service area, [~~nine~~] **five** of whom shall be appointed by the governor, one of whom the governor shall designate as [~~chairman~~] **chair**, and serve at his **or her** pleasure, [~~three~~] **two** of whom shall be appointed by the temporary president of the senate, and [~~three~~] **two** of whom shall be appointed by the speaker of the assembly. [~~Two~~] **One** of the governor's appointees shall serve an initial term of [~~one year~~] **two years**; [~~two~~] **one** of the governor's appointees shall serve an initial term of [~~two~~] **three** years; [~~two~~] **and three** of the governor's appointees shall serve an initial term of [~~three~~] **four** years[~~; and three of the governor's appointees shall serve an initial term of four years~~]. [~~Two~~] **One** of the appointees of the temporary president of the senate and [~~two~~] **one** of the appointees of the speaker of the assembly shall serve initial terms of [~~one year~~] **two years**;

and one appointee of the temporary president of the senate and one appointee of the speaker of the assembly shall serve initial terms of [~~two~~] **three** years. Thereafter, all terms

shall be for a period of four years. In the event of a vacancy occurring in the office of trustee by death, resignation or otherwise, the respective appointing officer shall appoint a successor who shall hold office for the unexpired portion of the term.

2. No trustee shall receive a salary, but each shall be entitled to reimbursement for reasonable expenses in the performance of duties assigned hereunder.

3. Notwithstanding the provisions of any other law, no trustee, officer or employee of the state, any state agency or municipality appointed a trustee shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of a trusteeship on the authority, his or her service thereon or his or her employment therewith.

4. All trustees appointed under this section shall have relevant utility, corporate board or financial experience.

§ 5. On or before December 1, 2013 the governor, the temporary president of the senate and the speaker of the assembly shall choose and announce their appointments to the board of the Long Island power authority to be made pursuant to section 1020-d of the public authorities law, as amended by section four of this act, giving due consideration to continuity of business. The board of trustees of the Long Island power authority in existence on December 31, 2013, shall be abolished on such date and be constituted on January 1, 2014 pursuant to section 1020-d of the public authorities law, as amended by section four of this act.

§ 6. Subdivision (u) of section 1020-f of the public authorities law is REPEALED.

§ 7. Subdivisions (c) and (bb) of section 1020-f of the public authorities law, subdivision (c) as amended by chapter 506 of the laws of 2009 and subdivision (bb) as added by chapter 8 of the laws of 2012, are amended and seven new subdivisions (u), (cc), (dd), (ee), (ff), (gg) and (hh) are added to read as follows:

(c) To appoint officers, agents and employees, without regard to any personnel or civil service law, rule or regulation of the state and in accordance with guidelines adopted by the authority, prescribe their duties and qualifications and fix and pay their compensation [~~**, provided, however, that the appointment of the chief executive officer shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter;**~~]**. By January first, two thousand fourteen, the authority, through its governance committee, shall amend such guidelines to require that staffing at the authority is kept at levels only necessary to ensure that the authority is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and oversee the activities of the service provider**;

(u) Rate plans. Subject to subdivision six of section one thousand twenty-k of this title to fix rates and charges for the furnishing or rendition of gas or electric power or of any related service at the lowest level consistent with sound fiscal and operating practices of the authority and which provide for safe and adequate service. In implementing this power:

1. The authority and the service provider shall, on or before February first, two thousand fifteen, submit for review to the department of public service a three-year rate proposal for rates and charges to take effect on or after January first, two thousand sixteen.

2. The authority and the service provider shall thereafter submit for review to the department of public service any rate proposal that would increase the rates and charges and thus increase the aggregate revenues of the authority by more than two and one-half percent to be measured on an annual basis; provided, however, that the authority may place such rates and charges into effect on an interim basis, subject to prospective rate adjustment; provided, further, that a final rate plan issued by the authority that would not so increase such rates and charges shall not be subject to the requirements of paragraph four of this subdivision and shall be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The authority and/or the service provider may otherwise submit for review to such department any rate proposal irrespective of its effect on revenues.

3. The authority shall not fix any final rates and charges proposed that would not be subject to review by the department of public service pursuant to paragraphs one and two of this subdivision until after holding public hearings thereon upon reasonable public notice, with at least one such hearing to be held each in the county of Suffolk and the county of Nassau.

4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of its final rate plan and such final determination shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency.

At such hearing, the department of public service shall present the basis for its recommendations, the board shall present the basis for its determination of inconsistency and the service provider may present its position. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(bb) Comprehensive and regular management and operations audits.

1. The authority **and the service provider** shall cooperate in the undertaking and completion of a regular and comprehensive management and operations audit conducted pursuant to the requirements of this subdivision and [~~subdivision two of section three~~] **paragraph (d) of subdivision three of section three-b** of the public service law. Such audit shall review and evaluate the [~~authority's~~] overall operations and management

of the authority and service provider, including [~~the authority's~~] such operations and management in the context of [~~its~~] the authority's duty to set rates at the lowest level consistent with standards and procedures provided in subdivision (u) of this section, and include, but not be limited to: (i) the [~~authority's~~] service provider's construction and capital program planning in relation to the needs of [~~its~~] customers for reliable service; (ii) the overall efficiency of the authority's and service provider's operations; (iii) the manner in which the authority is meeting its debt service obligations; (iv) the authority's Fuel and Purchased Power Cost Adjustment clause and recovery of costs associated with such clause; (v) the authority's and service provider's annual budgeting procedures and process; (vi) the application, if any, of the performance metrics designated in the operations services agreement and the accuracy of the data relied upon with respect to such application; and [~~(vi)~~] (vii) the authority's compliance with debt covenants.

2. The department of public service shall notify the authority that said department is in the process of initiating a comprehensive management and operations audit as described in paragraph one of this subdivision in a manner that ensures the timeliness of such audit, and in accordance with the following timeframe: the first comprehensive management and operations audit shall be initiated as of the effective date of [~~this subdivision~~] chapter eight of the laws of two thousand twelve and undertaken in a manner and to an extent that is practicable in the context of the authority's transition to a new management service structure; the second comprehensive management and operations audit shall be initiated no later than December fifteenth, two thousand [~~fifteen~~] sixteen; and all additional comprehensive management and operations audits shall be initiated at least once every five years thereafter.

Within a reasonable time after such notification to the authority, said department or the independent auditor retained by the authority to undertake such audit shall hold public statement hearings, with proper notice, in both Nassau and Suffolk counties for the purpose of receiving both oral and written comments from the public on matters related to such audit as described in paragraph one of this subdivision.

3. Each such audit shall be completed within eighteen months of initiation absent an extension for good cause shown by the department of public service or the independent auditor under contract with the authority with notice of such extension to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the authority and the department of public service. Such audit shall be provided to the board of the authority immediately upon its completion.

The department of public service shall provide notice of completion of such audit to the governor, the temporary president of the senate, the speaker of the assembly, and the minority leaders of the senate and assembly, and the authority, upon receipt of such audit, shall post a copy of such audit, including findings and recommendations, on its website and the website of the service provider. Unless the board of the authority makes a preliminary determination that any particular finding or recommendation contained in such audit is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligation, or the provision for safe and adequate service, the board shall implement or cause its service provider to implement such findings and recommendations in accordance with the timeframe specified under such audit.

4. The board of the authority shall make any preliminary determination of inconsistency with respect to any such finding or recommendation

within thirty days of receipt of the audit, with notice and the basis of such determination being provided to the department of public service.

Such notice and basis shall be posted contemporaneously on the authority's website **and the website of the service provider** and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency **and the service provider may present is position**. The authority**, service provider** and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The [~~**board's**~~] **authority's** final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, prepare and maintain an emergency response plan (i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where wide-spread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider.

2. On or before February third, two thousand fourteen, the authority and service provider shall submit an emergency response plan to the department of public service for review. Contemporaneously with such submission, the authority shall provide notice of such proposed plan to the secretary of state for publication in the state register, the authority and service provider each shall post such plan on their websites and otherwise make such plan available for review in-person, and afford members of the public an opportunity to submit written comments and oral comments pursuant to at least one hearing to be held each in the county of Suffolk and the county of Nassau. Such written comments must be submitted by March fourteenth, two thousand fourteen.

The authority and service provider shall provide a copy of all written comments they receive and a transcript of such public hearings to the department of public service for its consideration in reviewing the emergency response plan. The department shall provide any recommendations to the authority and service provider with respect to such plan on or before April fifteenth, two thousand fourteen. Such plan must be made final by June second, two thousand fourteen. For each year thereafter, the service provider shall submit an emergency response plan to the department of public service, and such department shall provide its recommendations, in accordance with a schedule to be established by such department and that is consistent with the schedule associated with such department's review of similar such plans provided by electric corporations pursuant to subdivision twenty-one of section sixty-six of the public service law.

3. By June second, two thousand fourteen, and by June first annually thereafter, the authority and service provider shall jointly certify to the department of homeland security and emergency services that the emergency response plan ensures, to the greatest extent feasible, the timely and safe restoration of energy services after an emergency consistent with the requirements of paragraph (a) of subdivision twenty-one of the public service law and the department's recommendations. The filing of such emergency response plan shall also include a copy of all written mutual assistance agreements among utilities. The authority and service provider shall file with the county executives of Nassau and Suffolk county and the mayor of the city of New York the most recent version of the emergency response plan, and make sure that such amended versions are timely filed.

4. Starting in calendar year two thousand fourteen, the service provider annually shall undertake at least one drill to implement procedures to practice its emergency response plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials.

5. If, during an emergency event, electric service is not restored in three days, the service provider shall within sixty days from the date of full restoration file with the department a report constituting a review of all aspects of the preparation and system restoration performance during the event, and shall thereafter take into consideration any recommendations made by the department associated with such review.

(dd) On or before January first, two thousand fifteen, and by January first of each calendar year thereafter, to submit for review to the department of public service a report detailing the service provider's planned capital expenditures.

(ee) On or before July first, two thousand fourteen, and annually thereafter, to submit for review to the department of public service any proposed plan related to implementing energy efficiency measures, distributed generation or advanced grid technology programs for the purpose provided pursuant to paragraph (g) of subdivision three of section three-b of the public service law.

(ff) To assist and cooperate with the department of public service with respect to any review undertaken pursuant to section three-b of the public service law, including providing the department with reasonable access to all facilities and premises owned or operated by the authority or its service provider, allowing review of all books and records of the authority and its service provider, providing copies of requested documents, allowing interviews of all appropriate personnel, and responding in a reasonable and timely manner to any inquiries or reporting requests made by the department; provided, however, that the obligations set forth in this subdivision shall not extend to affiliates of the service provider.

(gg) Renewable generation and energy efficiency programs. 1. The authority in coordination with the service provider, the power authority of the state of New York and the New York state energy research and development authority shall, to the extent the authority's rates are sufficient to provide safe and adequate transmission and distribution service, and the measures herein, undertake actions to design and administer renewable energy and energy efficiency measures in the service area, with the goal of continuing and expanding such measures that cost-effectively reduce system-wide peak demand, minimize long-term fuel price risk to rate payers, lower emissions, improve environmental quality, and seek to meet New York state climate change and environmental

goals. Such actions shall also include implementation of any renewable energy competitive procurement or feed-in-tariff programs that were approved by the authority as of the effective date of the chapter of the laws of two thousand thirteen which added this subdivision.

2. The service provider shall consider, consistent with maintaining system reliability, renewable generation and energy efficiency program results and options in establishing capital plans.

(hh) Starting in calendar year two thousand fifteen, the authority and the service provider shall submit to the department of public service for review, any and all data, information and reports which set forth the service provider's actual performance related to the metrics in the operations services agreement, including the authority's evaluation thereof, no less than forty-five days prior to the authority's determination of the service provider's annual incentive compensation.

§ 8. Section 1020-q of the public authorities law, as added by chapter 517 of the laws of 1986 and subdivision 2 as amended by section 19 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

§ 1020-q. Payments in lieu of taxes. 1. Each year after property theretofore owned by LILCO is acquired by the authority by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred, [~~except for such taxing jurisdictions which tax the Shoreham plant,in which case the in lieu of tax payments shall in the first year after the acquisition be equal to one hundred percent of the taxes and assessments which would have been received by such taxing jurisdictions. In each succeeding year such in lieu of tax payments shall be decreased by ten percent until such time as such payments equal taxes and assessments which would have been levied on such plant in a nonoperative state~~] provided, however, that for the calendar year starting on January first, two thousand fifteen, and for each calendar year thereafter, such payments in lieu of taxes shall not exceed the in lieu of tax payments made to such municipalities and school districts in the immediately preceding year by more than two percent.

2. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed [~~upon LILCO, if LILCO were to continue in operation,~~] pursuant to sections one hundred eighty-six-a and one hundred eighty-six-c of the tax law, and to former [~~sections one hundred eighty-six and~~] section one hundred eighty-six-b of the tax law as such [~~sections one hundred eighty-six and one hundred eighty-six-b were~~] section was in effect on December thirty-first, nineteen hundred ninety-nine, [~~paragraph (b) of subdivision four of section one hundred seventy-four of the navigation law,~~] and any taxes imposed by a city pursuant to the authorization granted by section twenty-b of the general city law.

3. No municipality or governmental subdivision, including a school district or special district, shall be liable to the authority or any other entity for a refund of property taxes originally assessed against the Shoreham plant. Any judicial determination that the Shoreham plant assessment was excessive, unequal or unlawful for any of the years from nineteen hundred seventy-six to the effective date of this title shall not result in a refund by any taxing jurisdiction of taxes previously paid by LILCO pursuant to such Shoreham plant assessment. The authority shall discontinue and abandon all proceedings, brought by its predecessor

in interest, which seek the repayment of all or part of the taxes assessed against the Shoreham plant.

§ 9. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 388 of the laws of 2011, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined there-in, (b) article ten of such law applies to the siting of a generating facility as defined therein, [~~and~~] (c) section eighteen-a of such law provides for assessment for certain costs, property or operations**, and (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law**.

§ 10. Section 1020-w of the public authorities law, as added by chapter 517 of the laws of 1986, is amended to read as follows:

§ 1020-w. Audit and annual reports. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the [~~state division of the budget~~] **authority, upon recommendation of its finance and audit committee**. The authority shall submit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly and the county executives and governing bodies of the counties of Suffolk and Nassau, a detailed report pursuant to the provisions of section two thousand eight hundred of [~~title one of article nine of~~] this chapter, which report shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of [~~title one of article nine of~~] this chapter.

§ 11. Section 1020-cc of the public authorities law, as amended by chapter 413 of the laws of 2011, is amended to read as follows:

§ 1020-cc. Authority subject to certain provisions contained in the state finance law, the public service law, the social services law and the general municipal law.

1. All contracts of the authority shall be subject to the provisions of the state finance law relating to contracts made by the state. The authority shall also establish rules and regulations with respect to providing to its residential gas, electric and steam utility customers those rights and protections provided in article two and sections one hundred seventeen and one hundred eighteen of the public service law and section one hundred thirty-one-s of the social services law. The authority shall conform to any safety standards regarding manual lockable disconnect switches for solar electric generating equipment established by the public service commission pursuant to subparagraph (ii) of paragraph (a) of subdivision five and subparagraph (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of the public service law. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

2. The authority and service provider shall provide to the state comptroller on March thirty-first and September thirtieth of each year a

report documenting each contract in excess of two hundred fifty thousand dollars per year entered into with a third party and related to management

and operation services associated with the authority's electric transmission and distribution system, including the name of the third party, the contract term and a description of services or goods to be procured, and post such report on each of their websites. All contracts entered into between the service provider and third parties are not subject to the requirements of subdivision one of this section.

§ 12. Paragraph (b) of subdivision 4 of section 94-a of the executive law, as amended by chapter 8 of the laws of 2012, is amended to read as follows:

(b) The utility intervention unit shall have the power and duty to:

(i) on behalf of the secretary, initiate, intervene in, or participate in any proceedings before the public service commission **or the department of public service**, to the extent authorized by sections **three-b,** twenty-four-a, seventy-one, eighty-four or ninety-six of the public service law or any other applicable provision of law, where he or she deems such initiation, intervention or participation to be necessary or appropriate;

(ii) represent the interests of consumers of the state before federal, state and local administrative and regulatory agencies engaged in the regulation of energy services; [~~and~~]

(iii) accept and investigate complaints of any kind from Long Island power authority consumers, attempt to mediate such complaints where appropriate directly with such authority and refer complaints to the appropriate state or local agency authorized by law to take action with respect to such complaints[~~.~~]**; and**

(iv) hold regular forums in each of the service territories of the combination gas and electric corporations, as defined under section two of the public service law, and the Long Island power authority to educate consumers about utility-related matters and the regulatory process, opportunities to lower energy costs, including through energy efficiency and distributed generation, and other matters affecting consumers.

§ 13. Notwithstanding section 112 of the state finance law and notwithstanding any other provision of law to the contrary, including but not limited to any provision of law related to rebidding, letting or amending contracts of any amount, the Long Island Lighting Company dba LIPA is authorized to amend the operations services agreement, dated December 28, 2011, entered into with PSEG Long Island LLC, including Amendment Nos. 1 and 2 thereto, approved on June 27, 2012, solely by the following: (1) upon review and written recommendations made by the department of public service to the board of trustees of the Long Island power authority ("authority"), setting forth the reasons for and findings underlying such recommendations; and (2) adoption of a resolution by a majority of the authority's board of trustees.

§ 14. This act shall supersede the fifth project condition established in Resolution No. 97-LI-1 of the public authorities control board, dated July 16, 1997, related to the implementation of certain rate increases.

§ 15. Subdivision l of section 7208 of the education law, as amended by chapter 994 of the laws of 1971, is amended to read as follows:

l. The practice of engineering or land surveying, or using the title "engineer" or "surveyor" **(i)** exclusively as an officer or employee of a public service corporation by rendering to such corporation such services in connection with its lines and property which are subject to supervision with respect to the safety and security thereof by the

public service commission of this state, the interstate commerce commission or other federal regulatory body and so long as such person is thus actually and exclusively employed and no longer**, or (ii) exclusively as an officer or**

employee of the Long Island power authority or its service provider, as defined under section three-b of the public service law, by rendering to such authority or provider such services in connection with its lines and property which are located in such authority's service area and so long as such person is thus actually and exclusively employed and no longer;

§ 16. Repowering. If after the Long Island power authority, or its successor, determines, in accordance with the terms and conditions contained in the amended and restated power supply agreement ("A&R PSA"), dated October 10, 2012, between the authority and the owner of the legacy LILCO power generating facilities, that repowering any such generating facility is in the best interests of its ratepayers and will enhance the authority's ability to provide a more efficient, reliable and economical supply of electric energy in its service territory, consistent with the goal of improving environmental quality, the authority will exercise its rights under the A&R PSA related to repowering such facility, and shall enter into an agreement related to payments in lieu-of-taxes for a term commensurate with any power purchase agreement entered into related to such repowered facility, consistent with other such agreements related to generating facilities under contract to the authority in the service territory.

§ 17. This act shall take effect January 1, 2014; provided, however, that section twelve of this act shall take effect April 1, 2014, sections five, ten, eleven, thirteen, fourteen, fifteen and sixteen of this act shall take effect immediately; provided further that section thirteen of this act shall expire and be deemed repealed January 1, 2015; and provided further that the amendments to subdivision 6 of section 18-a of the public service law made by section two of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

PART B

Section 1. Legislative findings. The legislature hereby finds and determines:

1. On May 28, 1998, Long Island Power Authority (the authority) acquired all the capital stock and associated assets, including transmission and distribution (T&D) system assets of Long Island Lighting Company (LILCO) which does business as the retail electric utility on Long Island, New York under the name of LIPA. In connection with that acquisition, the authority took over ultimate responsibility for providing electric utility service to residential, commercial, industrial, nonprofit and governmental customers in the counties of Suffolk and Nassau and a portion of the county of Queens (hereinafter referred to as the "service area"). Such acquisition effectively converted LILCO from an investor-owned utility that was comprehensively regulated by the New York Public Service Commission (PSC) and the United States Federal Energy Regulatory Commission (FERC), to a municipal utility that is not comprehensively regulated either by the PSC or FERC.

2. Since May 28, 1998, neither the authority nor LIPA has directly operated or maintained the T&D system assets, provided electric service or billed and collected T&D rates from LIPA's customers; instead, the authority and LIPA have contracted out virtually all of these activities

to other companies. Most of these operations and service responsibilities have been contracted out to affiliates of a company now known as National Grid plc (National Grid), a multi-national electric and gas utility company organized under the laws of England and Wales pursuant to a management services agreement. Thus, while the LIPA name appears on customer bills as well as on service trucks and other equipment used in the service area,

affiliates of National Grid have been principally in charge of management and operation of the T&D system assets and providing electricity to consumers in the service area. The authority and LIPA have now contracted with affiliates of Public Service Enterprise Group and Lockheed Martin Services Inc. (PSEG-Lockheed) to provide operation and maintenance services for the T&D system assets for ten years starting January 1, 2014, when the National Grid contract expires.

3. High costs of electric utility service poses a serious threat to the economic well-being, health and safety of the residents of and the commerce and industry in the service area. High costs of electric utility service deter commerce and industry from locating in the service area and have caused existing commerce and industry to consider seriously moving out of the service area.

4. High debt and associated debt service contribute to the authority's high electric rates. The authority has approximately seven billion dollars in outstanding debt, a substantial portion of which was issued to refinance debt associated with construction of the now abandoned Shoreham nuclear power plant. The annual debt service associated with such bonds puts pressure on the authority's customer rates.

5. As of December 31, 2012, the three major rating agencies generally rated the authority's debt in the single-A range, though Moody's Investors Services assigns approximately seven hundred million dollars of the authority's debt slightly lower ratings of Baa1 and Baa2.

6. If securitized restructuring bonds were issued by a bankruptcy-remote entity with a AAA or equivalent rating in current market conditions to finance a portion of the costs of purchasing, redeeming or defeasing outstanding debt of the authority, and other associated costs, the debt service on the authority's debt could be reduced and the costs of electric utility service could be lowered.

7. Securitized restructuring bonds are likely to be most attractive to the investing public and result in the lowest possible yields if they are issued by a newly organized, special purpose public benefit corporation or other corporate municipal instrumentality of the state.

8. The purpose of this act is to provide a legislative foundation for the issuance of securitized restructuring bonds to refinance outstanding debt of the authority, a significant portion of which relates to LILCO's costs of constructing and financing the now abandoned Shoreham nuclear power plant, including the creation of restructuring property by the authority to provide for the redemption or defeasance of a portion of the outstanding debt of the authority. It is the intent of the legislature to authorize, for the purpose of reducing electric utility costs to consumers in the service area, the following: (a) the organization of a restructuring bond issuer as a special purpose corporate municipal instrumentality of the state, created for the limited purpose of issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt of the authority and associated costs, which securitized restructuring bonds create no new financial obligations or liabilities for the authority or for the state; and (b) implementation of contracts with owners of the securitized restructuring bonds through a

statutory pledge and agreement that the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds until those bonds are no longer outstanding and all

amounts due and owing under the related transaction documents have been paid in full.

9. Accordingly, the issuance of securitized restructuring bonds is expected to result in lower aggregate distribution and transmission charges and transition charges, compared to other available alternatives.

§ 2. Definitions. As used or referred to in this act, unless a differing meaning clearly appears from the context:

1. "Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement or arrangement entered into in connection with the issuance of restructuring bonds that is designed to promote the credit quality and marketability of such restructuring bonds or to mitigate the risk of an increase in interest rates.

2. "Approved restructuring costs" means, to the extent approved as such under a restructuring cost financing order,

(a) costs of purchasing, redeeming or defeasing a portion of outstanding debt of the authority, including bonds and notes issued by the authority, debt issued by the New York state energy research and development authority for the benefit of the LILCO;

(b) costs of terminating interest rate swap contracts and other financial contracts entered into by or for the benefit of the authority and related to debt obligations of the authority;

(c) rebate, yield reduction payments and any other amounts payable to the United States Treasury or to the Internal Revenue Service to preserve or protect the federal tax-exempt status of outstanding debt obligations of the authority; and (d) upfront financing costs associated with restructuring bonds.

3. "Assignee" means any individual, corporation, limited liability company, partnership or limited partnership, trust or other legally-recognized entity to which an interest in restructuring property is assigned, sold or transferred, other than as security, including any assignee of that party.

4. "Authority" means Long Island Power Authority, a corporate municipal instrumentality and political subdivision of the state.

5. "Consumer" means any individual, governmental body, trust, business entity, nonprofit organization or other legally-recognized entity that takes electric delivery service within the service area by means of electric transmission or distribution facilities, whether those electric transmission or distribution facilities are owned by LIPA or any other entity.

6. "Financing cost" means the costs to issue, service, or repay restructuring bonds, whether incurred upon issuance of such restructuring bonds or over the life of the restructuring bonds, and approved for recovery in a restructuring cost financing order. Without limitation, "financing cost" may include, as applicable, any of the following:

(a) principal, interest and redemption premiums payable on restructuring bonds;

(b) any payment required under an ancillary agreement and any amount required to fund or replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds;

(c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and

(d) any cost related to issuing restructuring bonds, administering the restructuring bond issuer and servicing restructuring property and

restructuring bonds, or related to the efforts to prepare or obtain approval of a restructuring cost financing order, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, trustee fees and expenses, legal fees and expenses, accounting fees and expenses, administrative fees and expenses, placement fees, underwriting fees, fees and expenses of the authority's advisors and outside counsel, if any, rating agency fees and any other related cost that is approved for recovery in the restructuring cost financing order.

7. "Financing entity" means the restructuring bond issuer, the authority or any servicer, trustee, collateral agent, and other person or entity acting for the benefit of owners of the restructuring bonds, the restructuring bond issuer or the authority that may own restructuring property or have rights to receive proceeds of restructuring bonds or to receive proceeds from the sale of restructuring property.

8. "LIPA" means Long Island Lighting Company, currently doing business under the name of LIPA.

9. "Ongoing financing costs" means financing costs that are not upfront financing costs. Ongoing financing costs include: (a) principal, interest and redemption premiums payable on restructuring bonds; (b) any payment required under an ancillary agreement and any amount required to replenish a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to restructuring bonds; (c) any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on transition charge revenues; and (d) any cost related to administering the restructuring bond issuer and servicing restructuring property or restructuring bonds, including, without limitation, costs of calculating adjustments of transition charges, servicing fees and expenses, administrative fees and expenses, trustee fees and expenses, and legal fees and expenses, accounting fees and expenses, and rating agency fees, approved for recovery in the restructuring cost financing order. Ongoing financing costs shall include any excess of actual upfront financing costs over the estimate of upfront financing costs included in the principal amount of the restructuring bonds.

10. "Restructuring bond issuer" means the corporate municipal instrumentality of the state created under section four of this act.

11. "Restructuring bonds" means bonds or other evidences of indebtedness that are issued pursuant to an indenture or other agreement of the restructuring bond issuer under a restructuring cost financing order (a) the proceeds of which are used, directly or indirectly, to recover, finance, or refinance approved restructuring costs, (b) that are directly or indirectly secured by, or payable from, restructuring property, and (c) that have a term no longer than thirty years.

12. "Restructuring cost financing order" means an order by the authority, adopted in accordance with this act, which approves the imposition and collection of transition charges, and the financing of approved restructuring costs and upfront financing costs through the sale of restructuring property and the issuance of restructuring bonds, and which includes a procedure to require periodic adjustments to transition charges to ensure the collection of transition charges sufficient to

provide for the timely payment of scheduled debt service on the restructuring bonds and all other ongoing financing costs contemplated by the restructuring cost financing order.

13. "Restructuring property" means the property rights and interests created pursuant to this act, including, without limitation, the right, title, and interest: (a) in and to the transition charges established

pursuant to a restructuring cost financing order, as adjusted from time to time in accordance with the restructuring cost financing order; (b) in and to all revenues, collections, claims, payments, money, or proceeds of or arising from the transition charges or constituting transition charges that are the subject of a restructuring cost financing order, regardless of whether such revenues, collections, claims, payments, money, or proceeds are imposed, billed, received, collected or maintained together with or commingled with other revenues, collections, claims, payments, money or proceeds; and (c) in and to all rights to obtain adjustments to the transition charges pursuant to the terms of the restructuring cost financing order. Restructuring property shall constitute a vested, presently existing property right notwithstanding the fact that the value of the property right will depend on further acts that have not yet occurred, including but not limited to, consumers remaining or becoming connected to the T&D system assets and taking electric delivery service, the imposition and billing of transition charges, or, in those instances where consumers are customers of LIPA or any successor owner of the T&D system assets, such owner performing certain services.

14. "Service area" means the geographical area within which LIPA provided electric distribution services as of the implementation date of this act.

15. "Servicer" means an entity authorized and required, by contract or otherwise, to impose, bill and collect transition charges, to prepare periodic reports regarding billings and collections of transition charges, to remit collections to the appropriate financing entity, and to provide other services contemplated by the restructuring cost financing order, which may include calculation of periodic adjustments to the transition charges or providing other services related to the restructuring property. Without limitation, LIPA or any successor owner of the T&D system assets, their agents or subcontractors, or any entity authorized to bill and collect T&D rates may be a servicer.

16. "Servicing fee" means, except to the extent otherwise specified in a restructuring cost financing order, the periodic amount paid pursuant to a servicing agreement, indenture or other such document to a servicer of restructuring property which amount shall approximate the estimated incremental cost of imposing, billing and collecting transition charges, preparing servicing reports and performing other customary servicing services required in connection with securitized bonds. A restructuring cost financing order may authorize a smaller fee payable to a successor servicer that is affiliated with a successor owner of the T&D system assets if the incremental cost of providing servicing services is less than LIPA's incremental costs. A restructuring cost financing order may authorize a larger fee payable to a successor servicer that is not affiliated with the owner of the T&D system assets or is not performing similar services with respect to the base rates of the owner of the T&D system assets if such larger fee is reasonably necessary to employ a reliable successor servicer.

17. "Successor regulator" means a regulatory department, commission or other instrumentality or subdivision of the state with jurisdiction to

regulate the T&D rates of LIPA or its successor as owner of the T&D system assets.

18. "Third-party biller" means any person or entity authorized, required or entitled to bill or collect transition charges or T&D rates other than the authority, LIPA or a successor owner of the T&D system assets, or a servicer.

19. "T&D rates" means rates and charges for electric transmission and distribution services in the service area. "T&D rates" shall not include charges for the generation or resale of electricity or any charges imposed to fund public purpose programs.

20. "T&D system assets" means the physically integrated system of electric transmission and distribution facilities (and other general property and equipment used in connection therewith) owned by LIPA as of the effective date of this act or thereafter acquired for use by LIPA or its successors in providing retail electric utility service to consumers in the service area.

21. "Transition charges" means those rates and charges relating to the T&D system assets that are separate and apart from base rates of LIPA or any successor owner of the T&D system assets and that are authorized in a restructuring cost financing order to recover from consumers the principal, interest and premium payable on restructuring bonds and the other ongoing financing costs associated with the restructuring bonds. As provided in paragraph (c) of subdivision 5 of section five of this act, transition charges shall be imposed on all consumers in the service area and collected by LIPA or any successor owner of the T&D system assets, their agents, subcontractors, assignees, collection agents or any other entity designated under the restructuring cost financing order.

22. "Upfront financing costs" means the fees and expenses to issue restructuring bonds, including, without limitation, expenses associated with the efforts to prepare or obtain approval of a restructuring cost financing order, as well as the fees and expenses associated with the structuring, marketing, and issuance of restructuring bonds, including, without limitation, counsel fees, structural advisory fees, underwriting fees and original issue discount, rating agency and trustee fees (including fees of trustee's counsel), accounting and auditing fees, printing and marketing expenses, stock exchange listing fees and compliance fees, filing fees, any applicable taxes, payments in lieu of taxes, the amount required to fund a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the restructuring bonds, and fees and expenses of the authority's advisors and outside counsel, if any. Upfront financing costs include reimbursement to any person of amounts advanced for payment of such costs. Upfront financing costs do not include scheduled debt service or other ongoing financing costs, to the extent such ongoing financing costs are payable from transition charge revenues. If any upfront financing costs cannot be reasonably determined before the principal amount of restructuring bonds is fixed, such financing costs shall be estimated and the aggregate of such estimates shall be included as an upfront financing cost for purposes of determining the principal amount of restructuring bonds to be issued. If the actual upfront financing costs are greater than the estimated upfront financing costs, the difference shall be deemed to be an ongoing financing cost; if the actual upfront financing costs are less than the estimated upfront financing costs, the proceeds corresponding to such difference shall be used to pay ongoing financing costs.

§ 3. Procedure; judicial review. 1. Standard. The authority may prepare a restructuring cost financing order for the purpose of issuing restructuring bonds to refinance outstanding debt of the authority based on a finding that such bond issuance is expected to result in savings to consumers of electric transmission and distribution services in the service area on a net present value basis.

2. Public hearings. Notwithstanding any other provision of law to the

contrary, at any time after the effective date of this act, after making such finding, the authority shall schedule and hold one or more expedited public statement hearings on the proposed restructuring cost financing order. After the conclusion of such hearings and its review of any comments received, the authority shall finalize the restructuring cost financing order for submission to the board of trustees of the authority and to the public authorities control board ("PACB"). The PACB shall have the power and it shall be its duty to, upon receiving an application for approval of a restructuring cost financing order, within thirty days after receipt of such order, either approve, absent any conditions of approval, or disapprove such order based solely on the assumptions and conditions set forth in the restructuring cost financing order and whether such order complies with the standards set forth in this act. If the public authorities control board fails to approve or disapprove such restructuring cost financing order within such thirty day period, the PACB shall be deemed to have approved the restructuring cost financing order. If the board of trustees of the authority approves such restructuring cost financing order and the PACB approves or is deemed to have approved such restructuring cost financing order, the restructuring cost financing order shall become a final rate order by the authority.

3. Appeals. Because delay in the final determination of the petition will delay the issuance of restructuring bonds, thereby diminishing savings to consumers that might be achieved if the restructuring bonds were issued promptly after the issuance of the restructuring cost financing order, notwithstanding any other law to the contrary, any action, suit or proceeding to which the authority or the restructuring bond issuer may be a party, in which any question arises as to the validity of this act or any restructuring cost financing order, shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Such preference shall also be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this act or any restructuring cost financing order in which such counsel may be allowed to intervene. Notwithstanding any other provision of law to the contrary, the validity of this act may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days of the effective date of this act, and the validity of any restructuring cost financing order may only be challenged by an aggrieved party pursuant to an action, suit or proceeding filed within thirty days after such restructuring cost financing order becomes a final rate order by the authority; provided, however, that any such action, suit or proceeding and all supporting papers shall be filed directly to the Supreme Court, Appellate Division, Second Judicial Department.

4. Expiration of appeals. The authority shall provide written notification to the restructuring bond issuer upon the authority's determination that any and all actions, suits and proceedings challenging this

act and the final restructuring cost financing order have been denied or dismissed or the timing associated with the filing of such actions, suits and proceedings has lapsed or expired, and any related appeals have been exhausted or the timing related to such appeals has lapsed or expired.

5. Agreement to sell restructuring bonds. Within the time specified in

the restructuring cost financing order, after receiving notice from the authority that the time for petitions and appeals has lapsed or expired, the restructuring bond issuer shall enter into an agreement with one or more underwriters or purchasers satisfactory to the authority to sell the restructuring bonds in compliance with the restructuring cost financing order. No later than the third business day after the pricing of the restructuring bonds in accordance with such agreement, the initial servicer shall determine the initial transition charges and the expected savings to consumers in accordance with the restructuring cost financing order and shall file an issuance advice letter with the authority and the restructuring bond issuer setting forth the principal amount of restructuring bonds to be issued, the pricing, the net proceeds, the initial transition charges, the expected savings to consumers and any other information required by the restructuring cost financing order. No later than the end of the third business day after the filing of such issuance advice letter, the authority shall confirm in a notice to the restructuring bond issuer that such pricing complies with the restructuring cost financing order.

6. Issuance of restructuring bonds. Within ninety days after receiving notice of confirmation from the authority, the restructuring bond issuer shall issue the restructuring bonds, in one or more series or tranches and at one or more times, pursuant to the agreement to sell the restructuring bonds. The restructuring bond issuer shall purchase the restructuring property from the authority for a purchase price equal to the net proceeds from the sale of the restructuring bonds less any amounts of such proceeds required to fund or pay upfront financing costs.

7. Irrevocability. Upon the issuance of the restructuring bonds, the transition charges, including any adjustments thereof as provided in the restructuring cost financing order, shall be deemed established by the authority as irrevocable, final and effective without further action by the authority, or any other entity. The state, including the authority or any successor regulator, thereafter may not in any way take or permit any action to reduce, impair, postpone or terminate the transition charges approved in the restructuring cost financing order, as the same may be adjusted from time to time pursuant to subdivision 3 of section five of this act, or impair the restructuring property or the collection or recovery of transition charge revenues, including, but not limited to, either directly or indirectly by taking transition charges into account when setting other rates for any owner of the T&D system assets; nor shall the amount of revenues arising with respect to restructuring property be subject in any way to reduction, impairment, postponement, or termination.

8. Application of proceeds. The restructuring bond issuer shall cause the proceeds from its issuance of the restructuring bonds to be placed in one or more separate accounts and used only to pay or fund upfront financing costs and to purchase the restructuring property from the authority. The authority shall cause the proceeds from its sale of restructuring property to be placed in one or more separate accounts and used only to pay approved restructuring costs, and if funds remain in those accounts after the payment of all approved restructuring costs, to

make a refund or credit to consumers on the same basis that transition charges are then being imposed, to the extent such a refund or credit is practical.

§ 4. Creation of restructuring bond issuer. 1. Creation of restructuring bond issuer. For the purpose of effectuating the purposes

declared in section one of this act, there is hereby created a special purpose corporate municipal instrumentality of the state to be known as "utility debt securitization authority", which shall be a body corporate and politic, a political subdivision of the state, and a public benefit corporation, exercising essential governmental and public powers for the good of the public. The restructuring bond issuer shall not be created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the restructuring bond issuer shall inure to the benefit of or be distributable to its trustees or officers or any other private persons, except as herein provided for actual services rendered.

2. Activities limited to issuing restructuring bonds and related activities.

(a) The restructuring bond issuer is hereby authorized to:

(i) issue the restructuring bonds contemplated by a restructuring cost financing order, and use the proceeds thereof to purchase or acquire, and to own, hold and use restructuring property or to pay or fund upfront financing costs provided, however, that the restructuring bond issuer shall only issue and sell restructuring bonds once;

(ii) contract for servicing of restructuring property and restructuring bonds and for administrative services; and

(iii) pledge the restructuring property to secure the restructuring bonds and the payment of ongoing financing costs, all pursuant to section seven of this act.

(b) So long as any restructuring bonds remain outstanding, the restructuring bond issuer shall not be authorized to merge or consolidate, directly or indirectly, with any person or entity. Additionally, the restructuring bond issuer shall not have the power or authority to incur, guarantee or otherwise become obligated to pay any debt or other obligations other than the restructuring bonds and financing costs unless otherwise permitted by the restructuring cost financing order. The restructuring bond issuer shall keep its assets and liabilities separate and distinct from those of any other entity.

(c) The restructuring bond issuer shall have no additional authority to engage in other business activities; provided, however, that in connection with the powers specified in paragraph (a) of subdivision 2 of this section, as a financing entity, the restructuring bond issuer shall have the power to:

(i) sue and be sued;

(ii) have a seal and alter the same at pleasure;

(iii) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property;

(iv) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act and to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement, including, without limitation, make and execute contracts with the authority, LIPA or any successor owner of the T&D system assets, any servicers, any financing entity or any other public or private entities to service restructuring property owned by restructuring bond issuer, to service restructuring bonds issued by restructuring bond issuer, and to provide services in

administering the restructuring bond issuer, and to pay compensation for such services;

(v) appoint officers, agents and employees, prescribe their duties and qualifications, fix their compensation and engage the services of

private consultants, accountants, counsel and others on a contract basis for rendering professional and technical assistance and advice;

(vi) pay its operating expenses, scheduled debt service on the restructuring bonds and other ongoing financing costs;

(vii) issue restructuring bonds and provide for the rights of the holders thereof;

(viii) procure insurance against any loss in connection with its activities, properties and assets in such amount and from such insurers as it deems desirable;

(ix) invest any funds or other moneys under its custody and control in investment securities or under any ancillary agreement;

(x) establish and maintain such reserves, special funds and accounts, to be held in trust or otherwise, as may be required by agreements made in connection with the restructuring bonds, or any agreement between itself and third parties;

(xi) as security for the payment of the principal of and interest on any restructuring bonds issued by it pursuant to this act, and any agreement made in connection therewith, pledge all or any part of its revenues or assets, including, without limitation, restructuring property, unspent proceeds of its restructuring bonds, transition charge revenues, and earnings from the investment and reinvestment of unspent proceeds of its restructuring bonds and transition charge revenues; and

(xii) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

3. No authority to file for bankruptcy protection. The restructuring bond issuer shall not be authorized to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. No governmental officer or organization is empowered to authorize, whether by executive order or otherwise, restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code. Until at least one year and one day after all restructuring bonds issued by restructuring bond issuer have ceased to be outstanding and all unpaid financing costs have been paid, the state hereby pledges, contracts and agrees with owners of restructuring bonds issued by restructuring bond issuer that the state will not limit or alter the denial of authority to the restructuring bond issuer to be a debtor under chapter 9 of the United States Bankruptcy Code or any other provision of the United States Bankruptcy Code.

4. Governance. The restructuring bond issuer shall be governed by a board consisting of three trustees appointed by the governor. The trustees shall not be trustees, directors, officers, or employees of the authority, LIPA or any successor owner of the T&D system assets.

(a) One of the trustees first appointed shall serve for a term ending four years from January first next succeeding his appointment; one of such trustees shall serve for a term ending five years from such date; and one of such trustees shall serve for a term ending six years from such date. Their successors shall serve for terms of six years each. Trustees shall continue in office until their successors have been appointed and qualified and the provisions of section 39 of the public officers law shall apply. In the event of a vacancy occurring in the

office of a trustee by death, removal, resignation or otherwise, the Governor shall appoint a successor to serve for the balance of the unexpired term.

(b) Trustees shall serve without salary or other compensation, but each trustee shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

(c) A majority of the trustees shall constitute a quorum for the transaction of any business or the exercise of any power or function of restructuring bond issuer. Any one or more trustees may participate in a meeting of the board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The board may delegate to one or more of its trustees, or officers, agents and employees, such powers and duties as the board may deem proper.

(d) Such trustees may engage in private employment, or in a profession or business. Restructuring bond issuer, its trustees, officers and employees shall be subject to the provisions of sections 73 and 74 of the public officers law.

(e) Notwithstanding any inconsistent provision of law to the contrary, general, special or local, no officer of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as trustee of restructuring bond issuer.

(f) The governor may remove any trustee for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against him or her and an opportunity to be heard, in person or by counsel, in his or her defense, upon not less than ten days notice. If any trustee shall be so removed, the governor shall file in the office of the department of state a complete statement of the charges made against such trustee and his or her findings thereon, together with a complete record of the proceedings.

(g) Each trustee shall have a fiduciary duty to act in the best interests of the restructuring bond issuer, including its creditors, the owners of the restructuring bonds, and such other duties as may be specified in the organizational documents or other agreements of the restructuring bond issuer.

(h) The restructuring bond issuer and its corporate existence shall continue until one year and one day after all restructuring bonds and ongoing financing costs and other indebtedness of restructuring bond issuer have been actually paid and all its other liabilities and obligations have been paid, met or otherwise discharged. Upon termination of the existence of restructuring bond issuer, all of its rights and property shall pass to and be vested in the state.

§ 5. Restructuring cost financing orders. 1. Content of restructuring cost financing orders. The restructuring cost financing order shall include the following: (i) a description of the approved restructuring costs; (ii) the amount of approved restructuring costs that the authority proposes to pay through the sale of the restructuring property and the issuance of the restructuring bonds; (iii) designation of the authority as the entity in which initial ownership of restructuring property will vest; (iv) an estimate of the date on which restructuring bonds will be issued and the expected scheduled term to maturity of the restructuring bonds; (v) a description of the estimated debt service on the restructuring bonds and other ongoing financing costs that may be recovered through transition charges; as part of this description, the

restructuring cost financing order may include qualitative or quantitative limitations on financing costs approved to be recovered provided

that no such limitation on financing costs shall impair the ability of the restructuring bond issuer to pay and service the restructuring bonds in accordance with their terms; (vi) a proposed methodology for allocating transition charges on an equal percentage basis among customer service classifications and among volumetric (kWh) and demand (kW) charges within those customer service classifications, along with an associated bill impact analysis of the proposed methodology; (vii) a description of the proposed adjustment mechanism to reconcile actual collections with forecasted collection on at least an annual basis and a finding that the adjustment mechanism is just and reasonable; (viii) a description of the benefits to consumers in the service area that are expected to result from the sale of the restructuring property and the issuance of restructuring bonds as opposed to traditional alternative financing mechanisms; (ix) specifying the entity that will contract to act as servicer with respect to the restructuring property and the restructuring bonds on terms and conditions mutually acceptable to such servicer and the restructuring bond issuer; (x) specifying the entity or entities that will contract to provide administrative or other services to the restructuring bond issuer; (xi) specifying when the restructuring property will be created and vest and addressing such other matters as may be necessary or desirable for the marketing or servicing of the restructuring bonds or the servicing of the restructuring property; (xii) authorizing the imposition, billing and collection of transition charges to pay debt service on the restructuring bonds and other ongoing financing costs; (xiii) a description of the restructuring property that will be created and that may be used to pay and secure the payment of the restructuring bonds approved to be issued in the restructuring cost financing order; (xiv) a requirement that the amounts in the debt service reserve accounts or other accounts funded with the proceeds of restructuring bonds or transition charges be fully used, to the extent practical, to make the final payments of principal and interest on the restructuring bonds and other ongoing financing costs or to make refunds to consumers on the same basis as such consumers would have then been obligated to pay transition costs; and (xv) the finding required by subdivision 1 of section 3 of this act.

2. Periodic reports. A restructuring cost financing order shall require the restructuring bond issuer or the servicer to file at least annually with the authority and the appropriate financing entity a periodic report showing the billing and collection of transition charges, the application of transition charge revenues to debt service on the restructuring bonds and other ongoing financing costs, and the balances in any debt service reserve accounts or other accounts required by the restructuring cost financing order.

3. Adjustment mechanism.

(a) Each restructuring cost financing order shall include a mathematical formula for making periodic adjustments to the transition charges. The mathematical formula shall apply the following principles:

(i) The transition charges will be adjusted at least annually to ensure that the collections of transition charges are adequate to pay principal and interest on the associated restructuring bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve accounts to the required levels and to pay when due all other expected ongoing financing costs.

(ii) The adjustments of transition charges will take into account historical and reasonably foreseeable differences between amounts billed

and amounts collected due to applicable taxes, consumer defaults and delays, billing lags, write-offs and other factors.

(iii) The adjustments of transition charges will take into account historical and reasonably foreseeable variations in billings due to variations in electricity consumption associated with the seasons, storms and other weather conditions, outages, gain or loss of consumers, efficiencies, electric vehicles, economic conditions or other factors.

(iv) The adjustments of transition charges will take into account any over-collection or under-collection of transition charges so that, to the extent practical, the outstanding balance of restructuring bonds is equal to the scheduled balance on the expected amortization schedule, the amounts in the debt service reserve accounts are equal to the required reserve level, and all ongoing financing costs are paid when due.

(v) The adjustments of transition charges will be applied ratably to the transition charges for each customer service classification.

(b) Once restructuring bonds have been issued, the adjustment mechanism specified in the restructuring cost financing order shall be applied to correct for any over-collection or under-collection of transition charges and to provide for timely payment of scheduled principal of and interest on the restructuring bonds and the payment and recovery of other ongoing financing costs in accordance with the restructuring cost financing order. Application of the adjustment mechanism shall occur at least annually or more frequently as provided in the restructuring cost financing order. A notice of such periodic adjustment of transition charges shall be filed with the authority by or on behalf of the owner of restructuring property and a copy shall be provided to the owner of the T&D system assets at least sixty days before the adjustment is to take effect, provided that the restructuring bond issuer may request an earlier effective date.

(c) Each adjustment to the transition charge, in amounts as calculated by or on behalf of the owner of restructuring property, shall automatically become effective sixty days following the date on which the notice of periodic adjustment is filed with the authority unless the authority approves an earlier effective date requested by the restructuring bond issuer.

(d) Notwithstanding any other provision of law to the contrary, the authority shall allow interested parties thirty days from the date of filing of the notice for adjustment within which to make comments. Such comments shall be limited to the mathematical accuracy of the calculations of the amount of the adjustments. If the authority determines that the calculation of the transition charge adjustment in the notice was mathematically inaccurate, the transition charge adjustment shall be changed as soon as it is reasonably practical to do so, but estimated overcollections or undercollections resulting from the mathematical error shall be taken into account in the next succeeding periodic adjustment.

(e) No adjustment pursuant to this section shall in any way affect the irrevocability of the restructuring cost financing order as specified in subdivision 4 of section five of this act. No adjustment pursuant to this section shall require any approvals or action under any other law or shall be deemed to be the establishment of a new charge, fee or rate under any law.

4. Irrevocability of restructuring cost financing orders.

(a) A restructuring cost financing order shall be an irrevocable final

rate order when the time for any actions, suits, proceedings and appeals challenging such final restructuring cost financing order has lapsed or expired as provided in subdivision 3 of section three of this act.

(b) A restructuring cost financing order may be amended on or after the date of issuance of restructuring bonds approved thereunder only: (i) at the request of the authority; (ii) in accordance with any restrictions and limitations on amendment set forth in the restructuring cost financing order; (iii) subject to the limitations set forth in subdivision 7 of section three of this act; and (iv) upon approval by the PACB within thirty days of receipt of such amendment; provided, however, that if no approval or disapproval is made within such time, the amendment shall be deemed approved.

(c) This act, and any restructuring cost financing order made pursuant to this act, shall not be interpreted to alter or limit the rights vested in the authority to establish sufficient T&D rates to pay and perform all of its obligations and contracts with the authority's bondholders and others when due.

5. Effect of restructuring cost financing order.

(a) A restructuring cost financing order shall remain in effect and unabated until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all ongoing financing and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) A restructuring cost financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the authority, the restructuring bond issuer, LIPA or any successor owner of the T&D system assets, or any affiliate of the aforementioned, or the commencement of any judicial or nonjudicial proceeding therefor.

(c) For so long as restructuring bonds issued pursuant to a restructuring cost financing order are outstanding, and the related approved restructuring costs have not been paid in full, the transition charges authorized in the restructuring cost financing order shall be non-bypassable and shall apply to all consumers connected to the T&D system assets and taking electric delivery service located within the service area, whether or not the consumers produce their own electricity or purchase electric generation services from a provider of electric generation services other than the owner of the T&D system assets and whether or not the T&D system assets continue to be owned by LIPA.

§ 6. Restructuring bonds. 1. No recourse. Restructuring bonds shall be without recourse to the credit or any assets of the authority, LIPA and the restructuring bond issuer, other than the restructuring property and other assets and revenues of restructuring bond issuer as specified in the pertinent restructuring cost financing order.

2. Exemption from taxation.

(a) It is hereby found and declared that the activities of the restructuring bond issuer are primarily for the benefit of the people of the state of New York, for the improvement of their welfare and prosperity, and is a public purpose, and the restructuring bond issuer shall be regarded as performing an essential governmental function in carrying out the provisions of this act.

(b) The restructuring bond issuer shall not be required to pay taxes or assessments upon any of the property acquired or controlled by it or upon its activities in the use thereof or upon income derived therefrom.

(c) Restructuring bonds, their transfer and the income therefrom shall, at all times, be free from taxation by the state or any munici-

pality, except for estate and gift taxes.

3. Restructuring bonds not debt of the state. Restructuring bonds issued pursuant to a restructuring cost financing order and the provisions of this act shall not constitute a debt, general obligation or a pledge of the faith and credit or taxing power of the state or of any county, municipality or any other political subdivision, agency or instrumentality of the state. Holders of restructuring bonds shall not be taxed by the legislature or the taxing authority of any county, municipality or any other political subdivision, agency or instrumentality of this state for the payment of the principal thereof or interest thereon. The issuance of restructuring bonds does not obligate the state or any county, municipality or any other political subdivision, agency or instrumentality of the state to levy any tax or make any appropriation for payment of the principal of or interest on the restructuring bonds. All restructuring bonds must contain a statement to the following effect: "Neither the full faith and credit nor the taxing power of the state of New York is pledged to the payment of the principal of, or interest on, this bond."

4. Restructuring bonds as legal investments. Any restructuring bonds issued by the restructuring bond issuer are hereby made securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all trusts, estates and guardianships and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. The restructuring bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 7. Restructuring property. 1. (a) Restructuring property that is created pursuant to a restructuring cost financing order shall constitute an existing, present property right, notwithstanding the fact that the imposition and collection of transition charges will depend on further acts that have not yet occurred, including but not limited to: (i) LIPA or any successor owner of the T&D system assets delivering electric energy or related services, (ii) a servicer performing servicing functions relating to the collection of transition charges, or (iii) the level of future consumption of electric energy. Restructuring property shall exist whether or not transition charges have been imposed, billed, accrued or collected and notwithstanding the fact that the value or amount of the restructuring property is dependent on the future provision of service to customers by LIPA or any successor owner of the T&D system assets.

(b) All restructuring property created pursuant to a restructuring cost financing order shall continue to exist until the restructuring bonds issued pursuant to such restructuring cost financing order are paid in full and all ongoing financing costs relating to the restructuring bonds have been paid in full.

(c) The restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of

restructuring property may be pledged to secure the payment of restructuring bonds, amounts payable to financing parties, amounts payable to holders of restructuring bonds, amounts payable under any ancillary agreement and other ongoing financing costs. So long as the restructuring property remains pledged to secure the restructuring bonds, revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs. After the occurrence of an event of default with respect to the restructuring bonds, all or any portion of restructuring property may be transferred, sold, conveyed or assigned to any person or entity. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of restructuring property by the authority, the restructuring bond issuer, or other financing entity, to the extent previously approved in a restructuring cost financing order, does not require the prior consent and approval of any other person or entity under the public service law or any other law.

(d) If the owner of the T&D system assets, servicer, third-party biller, or any other person or entity authorized to collect transition charges, defaults on any required remittance of transition charge revenues, any court in the state, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the transition charge revenues for the benefit of the owners or pledgees of restructuring property. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to a servicer, authority, LIPA or any successor owner of the T&D system assets or any affiliate thereof or of any other person or entity.

(e) Restructuring property, transition charges, transition charge revenues, and the interests of an assignee, bondholder, financing party or any other person in restructuring property or in transition charge revenues, are not subject to setoff, counterclaim, surcharge or defense by a servicer, any consumer, the authority, LIPA or any successor owner of the T&D system assets or any other person or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of the authority, LIPA or any successor owner of the T&D system assets, any affiliate thereof or any other entity or otherwise. To the extent that any consumer makes a partial payment of a bill containing both transition charges and any other charges, such payment shall be allocated pro rata between the transition charges and the other charges unless the consumer specifies that a greater proportion of such payment is to be allocated to the transition charges, except that the other charges shall be reduced by the amount of any claims of setoff, counterclaim, surcharge or defense for purposes of such allocation.

(f) Any successor owner of the T&D system assets and any successor servicer shall be bound by the requirements of this act and shall perform and satisfy all obligations of a servicer in the same manner and to the same extent under a restructuring cost financing order as did LIPA and the initial servicer, including, without limitation, the obligation to impose, bill and collect the transition charges and to pay such collections to the person entitled to receive the transition charge revenues.

2. Security interests. Any pledge of restructuring property or proceeds thereof, including any moneys, revenues or property or of a revenue producing contract or contracts constituting part of the

restructuring property, made by the owner of restructuring property,

shall be perfected, valid and binding from the time when the pledge is made. The proceeds, moneys, revenues or proceeds so pledged and thereafter received by the owner of restructuring property shall immediately be subject to the lien of such pledge, and such lien shall be perfected, without any physical delivery thereof or further act. The lien of any such pledge shall be perfected, valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the owner of restructuring property irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens obtained by such claimants or transferees. The description of the restructuring property in a pledge or security agreement and any financing statement is sufficient if and only if the description refers to this Act and the restructuring cost financing order creating such restructuring property. No instrument by which a pledge or lien is created pursuant to this subdivision need be recorded in order to perfect such pledge or lien. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article 9 of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that the secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed. A pledge of restructuring property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that restructuring property or proceeds thereof unless the holder of any such lien has agreed in writing otherwise. Any pledgee of restructuring property shall have a perfected security interest in the amount of all restructuring property revenues or other proceeds that are deposited in any deposit account or other account of the servicer or other entity in which restructuring property revenues or other proceeds have been commingled with other funds. Any other security interest that may apply to restructuring revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a financing party. No application of the adjustment mechanism as described in this act shall affect the validity, perfection, or priority of a pledge of, security interest in or the sale or transfer of restructuring property.

3. Sales of restructuring property.

(a) A transfer of all or any portion of restructuring property, which the parties in the governing documentation have expressly stated to be a sale or other absolute transfer, in a transaction approved in a restructuring cost financing order, shall be treated as an absolute transfer of all of the transferor's right, title, and interest (as in a true sale), and not as a pledge or other financing, of the restructuring property, other than for federal, state and local income and franchise tax purposes.

(b) Any transfer of an interest in restructuring property shall be perfected, vested, valid and binding from the time when the transfer is made. Such transfer shall be perfected, vested, valid and binding as against the transferor, all parties having claims of any kind in tort, contract or otherwise against the transferor, and all other transferees of the transferor, irrespective of whether such parties have notice thereof and shall be superior to any judicial liens or other liens

obtained by such claimants or transferees. The description of the restructuring property in a sale or transfer agreement and any financing statement is sufficient if and only if the description refers to this act and the restructuring cost financing order creating such restructuring property. No instrument by which a transfer is created pursuant to this section need be recorded in order to perfect such transfer. However, the restructuring bond issuer shall cause a financing statement describing the pledge and referring to the restructuring cost financing order and the restructuring property described therein to be filed for informational purposes only under article nine of the uniform commercial code. The secretary of state shall maintain any financing statement filed under this section in the same manner that such secretary maintains financing statements filed by transmitting utilities under section 9-501 of the uniform commercial code until a termination statement is filed.

(c) The characterization of the sale, assignment or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser, shall not adversely be affected or impaired by, among other things, the occurrence of any of the following factors: (i) commingling of revenues or other proceeds from transition charges with other amounts; (ii) the retention by the seller of: (A) a partial or residual interest, including an equity interest, in the restructuring property, whether direct or indirect, or whether subordinate or otherwise; or (B) the right to recover costs associated with taxes, payments in lieu of taxes, franchise fees or license fees imposed on the collection of transition charges; (iii) any recourse that the purchaser may have against the seller; (iv) any indemnification rights, obligations or repurchase rights made or provided by the seller; (v) the obligation of the seller to collect transition charges on behalf of an assignee, including but not limited to, any retention by the seller to bare legal title for the purpose of collecting transition charges; (vi) the treatment of the sale, assignment or transfer for tax, financial reporting or other purposes; (vii) any subsequent order of the authority amending a restructuring cost financing order pursuant to paragraph (b) of subdivision 4 of section five of this act; or (viii) any application of the adjustment mechanism as provided in subdivision 3 of section five of this act.

(d) An assignee or financing party shall not be considered to be a public utility or person providing electric service solely by virtue of the transactions described in this act.

§ 8. Rights and duties while restructuring bonds are outstanding. 1. Responsibilities of the authority. (a) For the purpose of investigating compliance with the provisions of this act and the applicable restructuring cost financing order, the authority shall have the right, jurisdiction, power and authority to examine the books and records of LIPA or any successor owner of the T&D system assets, the restructuring bond issuer, any other financing entity, any servicer, any third-party biller and any other person or entity that owns restructuring property or has the right to impose, bill or collect transition charges until the restructuring bonds issued pursuant to the restructuring cost financing order have been paid in full and all financing costs relating to such restructuring bonds have been paid in full.

(b) Neither the authority nor any successor regulator may, in exercising its powers and carrying out its duties regarding regulation and ratemaking, consider restructuring bonds issued pursuant to the restructuring cost financing order to be the debt of any owner of the T&D

system assets, consider transition charges paid under the restructuring cost financing order to be revenue of any owner of the T&D system assets, or consider the approved restructuring costs or ongoing financing costs specified in the restructuring cost financing order to be costs of any owner of the T&D system assets or any affiliate, nor may the authority or any successor regulator determine that any action taken by any owner of the T&D system assets that is consistent with the restructuring cost financing order is unjust or unreasonable from a regulatory or ratemaking perspective; provided that, subject to the limitations set forth in subdivision 4 of section five of this act and the state pledge in section nine of this act, nothing in this subdivision shall (i) affect the authority to apply the adjustment mechanism as provided in subdivision 3 of section five of this act; (ii) prevent or preclude the authority from investigating the compliance of any owner of the T&D system assets and of any financing entity with the terms and conditions of a restructuring cost financing order and requiring compliance therewith; or (iii) prevent or preclude the authority or any successor regulator from imposing regulatory sanctions against any owner of the T&D system assets for failure to comply with the terms and conditions of a restructuring cost financing order or the requirements of this act. When setting other rates for any owner of the T&D system assets, nothing in this act shall prevent the authority or any successor regulator from taking into account the collection by such owner of servicing fees in excess of incremental costs of providing servicing services, or the collection by such owner of administration fees in excess of incremental costs of providing administration services; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following: (i) treating restructuring bonds as debt for federal income tax purposes; or (ii) treating any transfer of the restructuring property to the restructuring bond issuer or to any other financing entity as a true sale for bankruptcy purposes.

2. Duties of financing entities and any owner of T&D system assets.

(a) Any failure of any financing entity to apply the proceeds of restructuring bonds, or proceeds from the sale of restructuring property, in a reasonable, prudent and appropriate manner or otherwise comply with any provision of this act shall not invalidate, impair or affect any restructuring cost financing order, restructuring property, transition charge, or restructuring bonds.

(b) Any owner of T&D system assets, any servicer, any third-party biller and any other entity that bills or collects T&D rates shall simultaneously impose, bill and collect any transition charges applicable to consumers in the service area, including all consumers connected to the T&D system assets and taking electric delivery service located within the service area, shall allocate partial payments by consumers as provided in this act, shall terminate service to non-paying consumers on the same basis as termination of service is permitted for non-payment of T&D rates, shall exercise all enforcement rights of the owner or pledgee of the restructuring property for the benefit of such owner or pledgee, and shall remit any transition charge revenue to the owner or pledgee of the restructuring property.

§ 9. State pledge. (a) The state pledges to and agrees with the holders of restructuring bonds, any assignee and all financing entities that the state will not in any way take or permit any action that limits, alters or impairs the value of restructuring property or, except as

required by the adjustment mechanism described in the restructuring cost financing order, reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full.

(b) Any person who issues restructuring bonds is permitted to include the pledge specified in subdivision (a) of this section in the restructuring bonds, ancillary agreements and documentation related to the issuance and marketing of the restructuring bonds.

§ 10. Choice of law. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in any restructuring property, transition charge or restructuring cost financing order, shall be the laws of the state of New York.

§ 11. Conflicts. In the event of conflict between this act and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any pledge of, security interest in or transfer of restructuring property, this act shall govern to the extent of the conflict. In the event of conflict between this act and the public service law, the Long Island power authority act or any other law, this act shall govern to the extent of the conflict. Notwithstanding any provisions of law to the contrary, no approvals, notices or authorizations other than those specified in this act shall be required with respect to any restructuring cost financing order, and the transactions and contracts authorized in or contemplated by this act or any restructuring cost financing order, including but not limited to the incurrence and payment of any financing costs, the incurrence or payment of any approved restructuring costs, the issuance of restructuring bonds, the sale or other transfer of restructuring property, and any contracts and expenses incurred to facilitate the preparation of any restructuring cost financing order.

§ 12. Effect of invalidity on actions. Effective on the date that restructuring bonds are first issued under this act, if any provision of this act is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect any action allowed under this act that is taken by the authority, LIPA, the restructuring bond issuer, any owner of T&D system assets, an assignee, a collection agent, a financing party, a holder of restructuring bonds or a party to an ancillary agreement and any such action shall remain in full force and effect.

§ 13. Effectiveness of the act. The authority may not adopt its first restructuring cost financing order after the five year period after the effective date of this act.

§ 14. Severability. If any section, subdivision, paragraph or subparagraph of this act or the application thereof to any person, circumstance or transaction is held by a court of competent jurisdiction to be unconstitutional or invalid, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any other section, subdivision, paragraph or subparagraph of this act or its application or validity to any person, circumstance or transaction, including, without limitation, the irrevocability of a restructuring cost financing order

ing bonds, the imposition of transition charges, the transfer or assignment of restructuring property or the collection and recovery of revenues from transition charges. To these ends, the legislature hereby declares that the provisions of this act are intended to be severable and that the legislature would have enacted this act even if any section, subdivision, paragraph or subparagraph of this act held to be unconstitutional or invalid had not been included in this act.

§ 15. Standing. (a) The owner of restructuring property, or the trustee representing holders of restructuring bonds, shall be expressly permitted hereby to bring actions against any owner of the T&D system assets, any third-party biller, or any other entity authorized to bill or collect T&D rates, any consumers in the service area or any other person or entity for failure to impose, bill, pay or collect any transition charges constituting part of the restructuring property then held pledged as security for such restructuring bonds or for enforcement of any other provision of this act or the applicable restructuring cost financing order.

(b) Except as provided in section three of this act, any court and the authority shall have jurisdiction over any actions for failure to impose, bill, pay or collect any transition charges or for enforcement of other provision of this act or any restructuring cost financing order.

§ 16. Third-party billing. If and to the extent that third parties are allowed to bill and/or collect any transition charges, the authority, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers, which generally would include (i) operational standards and minimum credit requirements for any such third-party biller, or require a cash deposit, letter of credit or other credit mitigant in lieu thereof, to minimize the likelihood that defaults by a third-party biller would result in an increase in transition charges thereafter billed to consumers, (ii) a finding that, regardless of who is responsible for billing, consumers shall continue to be responsible for transition charges, (iii) if a third party meters and bills for the transition charges, that the owner of the T&D system assets and any servicer must have access to information on billing and usage by consumers to provide for proper reporting to the restructuring bond issuer and to perform its obligations as servicer, (iv) in the case of a default by a third-party biller, billing responsibilities must be promptly transferred to another party to minimize potential losses, and (v) the failure of consumers to pay transition charges shall allow service termination by the owner of the T&D system assets on behalf of the restructuring bond issuer of the consumers failing to pay transition charges in accordance with service termination rules and orders applicable to T&D rates. Any costs associated with such third-party billing and/or collection shall be included as part of the recoverable ongoing financing costs or other rates or charges, as appropriate. Further, the authority and any successor regulator shall not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the then current ratings on any tranche or series of the restructuring bonds by any nationally recognized statistical rating organization designated by the restructuring bond issuer.

§ 17. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivi-

sion, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not take

affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A through B of this act shall be as specifically set forth in the last section of such Parts.

The Legislature of the STATE OF NEW YORK **ss:**

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

DEAN G. SKELOS
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

Overview of Long Island Power Authority

Long Island Power Authority (LIPA) is a not-for-profit public utility and the owner of transmission and distribution networks in Long Island, New York. It is established by statute and the state governor has power to appoint board members. LIPA has entered into a management contracts with the Public Service Enterprise Group (PSEG), a publicly traded utility company in New Jersey, and PSEG's subsidiary now manages the billing and day-to-day operations of the distribution network.

Summary of LIPA Reform Act

Section 1(8) of Part B of the Long Island Power Authority Reform Act, 2013 (the LIPA Reform Act) provides the legislative purpose of the act, which is "to refinance outstanding debt of LIPA, a significant portion of which relates to the cost of constructing and financing the now abandoned Shoreham nuclear power plant". The Act authorizes the creation of a restructuring bond issuer for the limited purpose of "issuing securitized restructuring bonds to purchase restructuring property to finance the cost of purchasing, redeeming or defeasing a portion of the outstanding debt". This section also makes it clear that it is the intention of the legislature to provide a statutory pledge (found in s. 9 of the LIPA Reform Act) that until the restructuring bonds are paid in full, "the state will not in any way take or permit any action to revoke, modify, impair, postpone, terminate or amend this act in any manner that is materially adverse to the owners of the restructuring bonds".

The definitions in section 2 of the LIPA Reform Act provide some clarity to the mechanisms for the securitization regime. Restructuring bonds are issued by the "restructuring bond issuer" (which is established under section 4 of the LIPA Reform Act and known as the "Utility Debt Securitization Authority", or UDSA) and secured by the "restructuring property", which is essentially the property interest in a future revenue stream. In section 2(13), "restructuring property" is defined to include the property rights and interests in the "transition charges". As defined in s. 2(21), transition charges are established and may be amended from time to time in accordance with a restructuring cost financing order, and they are a component of the delivery line on the utility bills.

Section 3 provides the procedures for issuing restructuring bonds by the restructuring bond issuer, and includes appeal procedures and public hearing provisions. Section 4 provides the authority to establish the UDSA as a public corporation, the scope of its activities and its governance structure. It should be noted that section 4(2)(a)(i) provides that "the restructuring bond issuer shall only issue and sell restructuring bonds once" (please also see summary of 2015 amendments below). The UDSA also issues the restructuring cost financing orders in accordance with section 5.

Section 6 sets out the features of the restructuring bonds. Section 6(1) limits bond purchaser's remedies to the restructuring property, i.e. the property interest in a future revenue stream. The restructuring bonds are tax-exempt (section 6(2)), and are not debt of the state (section 6(3)).

Section 7 governs the restructuring property and creates a property interest and security interest in the future revenue stream arising from "transition charges". Section 7(1)(c) provides that "[t]he restructuring property may be transferred, sold, conveyed or assigned to the restructuring bond issuer. All or any portion of restructuring property may be pledged to secure the payment of restructuring bonds", and "revenues from the collection of transition charges shall be applied solely to the repayment of restructuring bonds and other ongoing financing costs."

Section 8(2) provides that any owner of the transmission and distribution network or any other entity that collects the delivery charges on behalf of the owner shall impose the transition charges on the consumers, and shall remit such revenues to the owner or pledgee of the restructuring property.

Section 9 provides the pledge from the state not to take actions to impair the value of the restructuring property. Sections 10 to 17 include procedural provisions such as conflicts, third-party billing and standing.

Summary of 2015 Amendments to LIPA Reform Act

The LIPA Reform Act was further amended in 2015 to permit the issuance of additional restructuring bonds by UDSA or a separate "Utility Debt Securitization Authority No. 2" up to an aggregate maximum amount (including the previously-issued Restructuring Bonds) of $4.5 billion. Any additional issuance of restructuring bonds, whether issued by UDSA or by a new issuer, will be separately secured by distinct collateral pursuant to a new financing order and transaction documents.

Background Information on Duke Energy and Duke Energy Florida

Duke Energy is a publicly-traded utility company with electricity generation and transmission networks in the Carolinas, Florida, Ohio, Kentucky and Indiana. Duke Energy Florida ("**DEF**") is a subsidiary of Duke Energy and distributes power over much of central and north Florida. The Florida Public Service Commission (the "**Commission**") regulates DEF and other electric utilities in Florida (including municipal or investor-owned electric utility, and rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system).

Summary of Legislative Provisions on Asset Securitization

In 2015, section 366.95 of the Florida Statutes is created to enable "financing for certain nuclear generating asset retirement or abandonment costs". This section includes asset securitization provisions to allow investor-owned electric utilities to set up a special-purpose vehicle ("**SPV**") to issue secured bonds to finance the utility's costs ("nuclear asset-recovery costs") associated with the "early retirement or abandonment of a nuclear generating asset unit". These provisions were likely introduced in response to the closing of Duke Energy's Crystal River nuclear plant in 2013. According to DEF, "[t]his process, called Asset Securitization, will save customers approximately $600 million as compared to traditional cost recovery methods."[1]

Subsection (1) sets out the definitions of some key terms used in the section. The definition of "Assignee" provides examples of different legal structures to set up the SPV, including corporation, limited liability company, trust, partnership or public authority. The definition of "utility" limits the scope of this section to "investor-owned electric utilities" by referring to the same definition in another section of the statute book. "Nuclear asset-recovery bonds" are issued by the utility or assignee, and secured by the "nuclear asset-recovery property", which is the property interest in the revenue stream arising from "nuclear asset-recovery charges".

Subsection (2) requires the utility to submit a petition to the Commission for a financing order before the nuclear asset-recovery bonds can be issued. The petition needs to demonstrate that securitization would result in cost savings or would avoid or mitigate rate impacts compared to the traditional method of cost recovery. Subsection (2) further requires the Commission to address specific areas in its financing order, including: (i) the amount of nuclear asset-recovery costs to be financed by the bonds and the period during which the charges can be imposed on customers; (ii) detailed fact findings on cost-effectiveness and rate impacts; (iii) a requirement that charges be nonbypassable and paid by all existing and future customers receiving transmission or distribution

[1] Duke Energy announcement, "Duke Energy Florida cuts rates for customers", February 8, 2016 <http://www.prnewswire.com/news-releases/duke-energy-florida-cuts-rates-for-customers-300216799.html>

services; and (iv) mechanisms for periodic adjustment in the nuclear asset-recovery charges.

Subsection (3) provides that the bonds are considered debt for the utility only for federal income tax purposes, and limits the Commission's power to impose certain requirements in the financing order.

Subsection (4) sets out specific requirements for utility bills, such as showing the nuclear asset-recovery charge as a separate line item on the utility bill.

Subsection (5) creates a property right in the nuclear asset-recovery charges, which exists even if the charges have not been billed and may be pledged to secure the nuclear asset-recovery bonds. The utility may create a wholly owned subsidiary (the SPV) for the limited purpose of "acquiring, owning, or administering nuclear asset-recovery property or issuing nuclear asset-recovery bonds under the financing order", which also protects the nuclear asset-recovery property from potential creditor claims. This subsection also provides priority rules for competing security interests in the nuclear asset-recovery property. Subsections (6) to (8) provides further guidance in connection with the transfer of nuclear asset-recovery property to an SPV.

Subsection (9) provides that the nuclear asset-recovery bonds are not debt of the state of Florida. An issue of such bonds does not obligate the state to levy any tax for its payment, although the state may provide bond guarantees or enhancements. Subsection (10) provides statutory authority for certain entities to invest in nuclear asset-recovery bonds. Subsection (11) provides a pledge from the state not to take actions to impair the value of the nuclear asset-recovery property. Subsections (12) to (15) include boilerplate provisions such as conflicts, severability and penalties for incompliance.

Duke Energy Florida's Financing Order and Bond Issuance

In November 2015, the Commission released Financing Order PSC-15-0537-FOF-EI to approve DEF's petition for the issuance of nuclear asset-recovery bonds in the amount of $1,283,012,000 plus financing costs. Under the financing order, DEF is authorized to impose a nuclear asset-recovery charge to repay the nuclear asset-recovery bonds and associated financing costs, which will be collected on a per-kWh basis from all applicable customer rate classes. The financing order authorizes DEF to impose the charge for a period not exceeding 276 months (23 years) from the issuance of the nuclear asset-recovery bond.

DEF created Duke Energy Florida Project Finance LLC for the issuance of of nuclear asset-recovery bonds in June 2016.

MOODY'S
INVESTORS SERVICE

RATING METHODOLOGY

Moody's Global Approach to Rating Securities Backed by Utility Cost Recovery Charges

Table of Contents:

1. SCOPE 1
2. EXECUTIVE SUMMARY 1
3. ANALYZING THE RISK FACTORS 3
4. MONITORING 6
MOODY'S RELATED RESEARCH 8

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1. Scope

This methodology describes our global approach to rating securities backed by utility cost recovery charges ("UCRC" bonds) that are established by special legislation and financing orders issued by utility regulatory bodies. The charges backing UCRC bonds rated by us have been established by state legislation and state utility regulatory bodies in the United States. For UCRC bonds backed by charges authorized by other jurisdictions, we will analyze the specifics of the securitization's legal framework and regulations – and their implications for the quality of the protections afforded to investors – within the general methodology described in this report.

Examples of cost recovery charges include those imposed to cover certain costs of utility companies that had been incurred in a regulated environment but could no longer be recovered because of a change to a more competitive regulatory regime (i.e., charges sometimes referred to as "stranded utility charges") and those imposed to pay for environmental cleanups, clean energy or for the replenishment of reserves established for repair of facilities damaged by natural calamities, such as hurricanes or tornados.

2. Executive Summary

A utility cost recovery charge bond is a bond typically issued by a special purpose entity of a utility, or by a special borrowing conduit, to recover specified costs as authorized by special legislation and a specific financing order issued by a public service utility regulatory body. The bonds are backed by a property right created by the legislation, which provides the right to impose and collect special charges on customers' monthly electric bills.

This credit rating methodology was republished on June 22, 2015 containing an updated monitoring section and minor other editorial updates in the body of the text and in certain footnotes. The content of this Credit Rating Methodology has not been changed.

The credit quality of the bonds depends on the legal strength of the property right, which in turn depends on the specifics of the related legislation and financing order, and on the size and economic strength and stability of the ratepayer base against which the costs will be imposed. Therefore, our credit analysis of cost recovery charge securitizations focuses on both legal and economic factors that can influence whether investors in UCRC bonds will be paid as promised.

On the legal side, we assess the extent to which the legislation that authorizes the cost recovery charges[1] provides clear procedures for insulating the transaction from claims by other parties and is likely to be able to withstand challenges to rescind or alter the legislation prior to the legal final maturity of the securities. Consequently, our analysis focuses on the extent to which the legislation clearly defines (1) a property that entitles the owner of such property – the utility, or, in some cases, a public trust or corporation – the right to charge the fee throughout the life of the security in an amount sufficient to make full and timely repayment of principal and interest on the security, (2) the process the owner of the property must follow to charge the fee, (3) the irrevocable right of the owner of the property to transfer the fee to a special purpose financing vehicle for securitization purposes, (4) the type of financing vehicle authorized to issue securities backed by the fees, and (5) the process to be followed such that the transfer would be viewed as a "true sale" of the rights to the cash flows rather than a pledge of collateral for a financing for transactions that involve the transfer of the property from the utility to the issuer. A true sale would insulate the securitization from a bankruptcy of the utility, protecting securitization investors from potential claims on the cash flows by the utility's creditors. In addition, we assess whether the legislation has a government pledge not to impair the utility's right to collect the charges and the consequences if the government nevertheless does attempt to impair the right.

We also examine the likelihood that other potential claimants, such as other creditors of the financing vehicle if it were to become bankrupt or investors in other securities that have been issued by the utility, might make a successful claim on the cash flows of the securitization. Furthermore, we consider the breadth of the market to whom the charge will be applied and the extent to which the charge might be "bypassable," that is, the extent to which current or future customers might be categorized as outside the scope of the applicability of the charge.

Our assessment of the overall legal strength of the property right involves qualitative and judgmental factors. Transactions that are strong with respect to each of such characteristics may achieve the highest rating while the impact of weakening any of the attributes would be evaluated on a case-by-case basis.

On the economic side, our analysis focuses on the likelihood that the charges established by the legislation and accompanying regulations will be sufficient to repay the securitization bonds and on whether the charges might become onerous enough to cause pressure to rescind or alter the charges through future legislative or legal actions. As part of that assessment, we evaluate (1) possible changes in the size and composition of the customer base against whom the fee is to be charged, incorporating an evaluation of the breadth and diversity of the customer base, (2) the likely per capita energy usage (in those cases in which the fee charged is based on the usage amount), and (3) the fee rate, including any mechanism built in by the legislation that enables the fee to be reset over time to offset shortfalls that might develop over the life of the securitization (i.e., the transaction's "true up" mechanism). Generally the true-up mechanism is in effect the most important credit protection for UCRC transactions, limiting the risk that the cost recovery charges will be insufficient to pay off the bonds, thereby limiting the need for traditional sources of credit enhancement such as subordination and reserve funds.[2]

In analyzing a transaction's true-up mechanism, we examine how high rates would need to be set under "stressful" future scenarios to fully pay off the bonds, to assess the risk that onerous future rates might cause pressure to overturn or change the legislation and/or regulations establishing the charges. The variables that we typically "stress" test for UCRC bonds are the base against which the charge is to be

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

[1] Throughout this report we use the terms "cost recovery charges" and "cost recovery fees" interchangeably.

[2] The true-up mechanism also limits the need to analyze the underwriting of the customer base, since the mechanism adjusts for all shortfalls, including those caused by customer defaults.

applied (usually energy usage) and the servicing fee. To obtain a high rating, we would expect that even in a stressful environment, such as one in which energy usage declined dramatically, the charge per customer necessary to pay off the bonds would be reasonably low both in absolute terms and as a percentage of the customer's energy bill. The specific stresses that we place on the variables are issuer-specific and are determined on a case-by-case basis.

In addition, we analyze the implications of other structural features of the securitization that could affect the risk of investor loss. For example, we examine the risk implications of how the cash flows are allocated among the various classes of investors and the other participants in the transaction, and the extent to which any other sources of funds are likely to be sufficient to offset any remaining shortfalls to investors, whether the shortfalls are temporary ("liquidity") or permanent ("credit enhancement").

3. Analyzing the Risk Factors

Because of the unique characteristics of this highly regulated asset class, our credit analysis of UCRC securitizations focuses primarily on the legislation and the true-up mechanism. The degree of certainty that the fees generated through the legislation will be sufficient to pay off the securitizations in full is a complementary aspect of the analysis. .

Depending on the risks and mitigants in the relevant jurisdiction, transaction ratings will typically be positioned between the government rating and the country ceiling. Risks that could lead us to determine transaction ratings to be lower than the country ceiling include, for example, continued high levels of debt burden in a utility system. Such high levels of debt, if deemed unsustainable in the long term, may lead to political pressure to adjust the regulatory framework around the system deficit, with some potential negative impact on the related securitization transactions.

In the following sections, we describe the factors that typically lead to a high degree of certainty and thus high ratings on the bonds.

3.1 Protection against Future Impairment of the Right to Collect the Charges

Utility cost recovery charges are established by special legislation that authorizes the creation of a property right to collect future surcharges on customers' monthly electricity bills as the means to pay back the UCRC bonds. Consequently, we analyze the extent to which investors are protected against the enactment of future legislative changes that would weaken that right. For example, investor risk would be mitigated in a situation in which (1) the legislation contained a pledge by the jurisdiction not to impair the right to collect the special charges until the maturity of the bonds and (2) violation of that pledge would be a violation of law [3].

3.2 Irrevocability of the Financing Order

The legislation is typically accompanied by a financing order issued by the public service commission that authorizes the utilities to impose and collect the surcharges on the customer's monthly electric bill during the term of the bonds. Our analysis assesses whether the financing order is irrevocable, which would protect investors against future adverse changes that may reduce the charges backing the bonds.

3.3 Sufficiency of the Charges and the True-Up Mechanism

The charges are usually assessed as an amount linked to a customer's energy usage. Our analysis considers whether the financing order places any limits on charges – e.g., caps on the levels of charges or limits on the length of time that the charges can be imposed – that might cause the collections to be insufficient to provide for timely payment of the principal and interest on the UCRC bonds. In addition, we analyze whether the period over which the charges are allowed to be levied provides sufficient cushion to pay off the bonds by maturity in the event that collections come in more slowly than originally projected.

[3] Violation of the non-impairment pledge would be a violation of the Contract Clause and the Takings Clause under the Federal and State constitutions.

As part of that analysis, we evaluate the power of any true-up mechanism that is provided for in the legislation and detailed in the financing order to correct for shortfalls that may develop over the life of the securities. A true-up mechanism typically adjusts future fee rates on a scheduled periodic basis (e.g., semiannually or annually) to correct for any under- (or over-) collections in a preceding period and to ensure the full and timely payment of future scheduled debt service, based on updated usage forecasts. The greater the frequency with which the true-up adjustments are made, the less likely that investors will suffer a shortfall at the final maturity date.[4]

That is particularly important as the security approaches the final maturity date; frequent rate adjustments based on then-current projections mitigate the risk that actual collections will deviate substantially from those projections, limiting the possibility of shortfalls at the final maturity date. Consequently, our analysis assesses the conditions under which more frequent true-ups are allowed, especially near the final maturity.[5]

3.4 Non-Bypassability of the Charges

We evaluate whether the charges are "non-bypassable," that is, whether the charges must be collected from all existing and future customers of the utility or its successors or assignees within the utility's service territory, and whether the financing order provides that a severance fee be charged to customers who switch to other service providers within the territory during the life of the bonds. We evaluate any exceptions to the non-bypassabilty rule, and consider the materiality of those exemptions to the cash collections. Charges that cannot be bypassed (i.e., those that cannot be avoided by the customers in the utility's service area) ensure a continuing payer base for the charges, leading to less risk for investors. As described in the Structural Features section (Section 3.8), the power of the true-up mechanism to protect investors is dependent on the non-bypassability of the charges. As a result, non-bypassability (with limited, immaterial exemptions) has been a key factor behind the high ratings that are typically assigned to these transactions, without the need for considerable protection from traditional types of credit protection, such as reserve accounts or subordination.

3.5 Bankruptcy of the Utility

For structures in which the initial owner of the property is a utility, a bankruptcy of the utility could expose securitization investors to the risk that other creditors of the utility might make a claim on the cost recovery charges or that payments to securitization investors might be delayed as a result of an imposition of an automatic stay on payments from the utility company.[6,7] However, that risk would be limited if it were clear that a bankruptcy court would view the transfer of the rights to the charges as a "true sale" of those rights, rather than as a financing of the company. As a result, we analyze whether the legislation clearly establishes the utility's right to receive and transfer the rights to the charges and provides unambiguous procedures for transferring those rights to the financing vehicle as a true sale, and whether those procedures are followed in the financing order.

In cases where the utility is the servicer of the transaction, we analyze whether a bankruptcy of the utility could lead to a disruption in servicing, e.g., billing and collecting. However, given the essential service provided by the utility, we expect that government authorities would intervene to prevent any disruption in servicing that might result from a bankruptcy. As a result, where the servicer is a regulated utility, we view operational risk as low. Consequently, we typically would consider a transaction to be consistent with a Aaa rating even if the servicer were not investment grade, as long as the transaction were structured with some mitigants for operational risk, such as the inclusion of a backup servicer and/or provision for additional liquidity.[8]

[4] Generally, the charges collected rank senior to other charges of a utility system and represent only a small amount of the total revenues of such system .
[5] Transactions typically allow for more frequent true-ups during the "tail period" between the transaction's stated "expected" maturity (determined by the sponsor) and the "legal" final maturity. The legal final maturity is the important date from our rating perspective, the date by which all principal must be repaid.
[6] In some transactions, the property is created by law for the benefit of a public trust or corporation that also is created by the same law. In such cases, the true sale risk would be non-existent as there is no sale or transfer of the property.
[7] For a discussion of how Moody's analyzes legal risks in structured finance transactions, see Moody's Related Research section at the end of this report.
[8] The rating standard for a backup servicer likely would be lower than investment grade, but would depend on the specific facts and circumstances of the transaction and servicer.

In addition, we analyze whether the bankruptcy of the utility could cause a disruption in the remittance of payments by the utility to bondholders. Such a disruption could occur if the remittances of the charges were "commingled" with the other funds of the utility and the bankruptcy court ordered a halt to payments until proper ownership of the funds could be sorted out. Our analysis includes an assessment of the ways in which the utility separates the cost recovery charges received from its other funds and the frequency with which it transfers the funds to the trust.

3.6 Bankruptcy of the Financing Vehicle

Another potential risk to investors in UCRC securitizations is a bankruptcy of the financing vehicle. That could expose investors to the risk that other creditors of the vehicle might make a claim on the cost recovery charges or that payments to investors might be delayed by the imposition of an automatic stay. Consequently, we analyze (1) the likelihood that a third-party creditor would be able to successfully petition the owner of the assets (i.e., the financing vehicle) into an involuntary bankruptcy proceeding or (2) the likelihood that the owner of the assets would voluntarily seek the protection of the bankruptcy courts.

To analyze the likelihood of an involuntary bankruptcy, we assess the characteristics that would mitigate that risk, such as if the financing vehicle had (1) no assets other than the right to the cost recovery charges, (2) no indebtedness other that the securitization debt, (3) limited activities that could give rise to contractual or other liabilities, and (4) agreements with the sponsor and other contracting parties not to petition for the dissolution, liquidation or bankruptcy of the securitization vehicle. Similarly, factors that would mitigate the risk of a voluntary bankruptcy would include (1) charter documents of the owner of the assets that require directors who are independent of the utility and (2) a unanimous vote of directors as a condition to filing a voluntary bankruptcy.

3.7 Economic Factors

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We typically also look at stressful collection scenarios. For example, in one scenario, we assume (1) that energy usage falls short of the utility's projections[9] by a progressively increasing amount each year (typically 5% per year), (2) that forecasted collections in peak usage months do not materialize (for example, 100% of the collections in the peak month and 50% of the collections in the second highest-usage month), and (3) that the servicing fee is considerably higher than the current, "normal," servicing fee, representing the fee that would be required if the original servicer needed to be replaced in a stressful environment. In another scenario, we typically assume that energy usage is lower than projected by a set amount throughout the life of the securitization (typically 25%). For highly rated transactions, we would expect that the cost recovery charge would remain relatively low even in those highly stressful scenarios.

While the specific stresses that we place on the variables have been quite similar to date, this reflects the fact that all rated transactions to date have involved requests for the highest ratings and been supported by highly diverse, broad-based service areas. However, in general, stresses are issuer-specific and are determined on a case-by-case basis. One of the factors that we use to determine the appropriate stress level for a transaction is the variability of the base against which the charge is applied, for example, the population in the service area or the energy usage in the service area. Customer bases that are less broad-based and diversified tend to be more variable; as a result, we would apply more severe stresses in those situations.

[9] We typically assess the reasonableness of the utility's projections by analyzing (1) the historical energy usage in the utility's service region and the variances between past projections and actual outcomes, and (2) the likely growth in electricity usage in the service area of the utility, taking into account the projected economic growth in the region and the possible competitive impact of technological advances, such as those in the development of solar energy.

In particular, we evaluate the economic diversity of the utility's service region to assess the potential variability in its economic health, which tends to drive changes in population and energy usage. An area that relies on multiple industries for economic growth will likely have a more stable business climate than an area that is dependent on the fortunes of one industry. In the latter case, the area's prospects will falter if that particular industry runs into hard times.

We also consider the mix in the customer base among residential, commercial, and industrial users. A utility with a large residential base relative to commercial and industrial users will tend to have less volatility in energy consumption, since energy consumption by commercial and industrial operations is more closely tied to the business cycle. Furthermore, residential customers are less likely to quickly embrace new energy production technologies and are less likely to cut back energy consumption dramatically if the price of energy were to rise. The higher variability of a commercial and industrial base can be exacerbated further if the service area's customer usage is concentrated in a few large commercial or industrial operations, which could make the overall energy consumption vulnerable if those entities were to decline or leave the area.

3.8 Structural Features

The key structural feature of UCRC transactions is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage (through alternative sources of energy or conservation). To be consistent with a particular rating, a strong true-up mechanism combined with non-bypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds.

In addition, our analysis of the credit risk of a UCRC transaction incorporates our assessment of the implications of the transaction's cash flow allocation structure (sometimes referred to as the cash flow "waterfall"). In particular, we focus on the seniority of principal and interest payments to the bond's investors *vis-à-vis* payments to other participants. In addition, we analyze the extent to which the transaction has an alternative source of liquidity to pay principal and interest in the event that there is a temporary interruption in the flow of the cost recovery charges. For example, in many transactions there is a capital or reserve account with funds sufficient to pay interest for at least 1-2 months, if needed. Furthermore, we assess the extent to which the credit enhancement that is available in the transaction is likely to be sufficient to offset any shortfalls that might develop in the period between the final true-up adjustment and the maturity of the bonds.

4. Monitoring

In monitoring UCRC transactions, we apply the key components of this methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialise, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

Depending on the jurisdiction, we also follow the rating of the utility as a proxy to assess any changes to the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of the utility collecting the charges (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

In other instances, we may be more concerned with the behavior of the regulator of the utility system and less with individual utility companies. This could lead to a lower rating in the space between the local currency ceiling and the sovereign rating or the utility rating.

Thus changes on our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

Moody's Related Research

The credit ratings assigned in this sector are primarily determined by this credit rating methodology. Certain broad methodological considerations (described in one or more secondary or cross-sector credit rating methodologies) may also be relevant to the determination of credit ratings of issuers and instruments in this sector. Potentially related secondary and cross-sector credit rating methodologies can be found here.

For data summarizing the historical robustness and predictive power of credit ratings assigned using this credit rating methodology, see link.

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CREDIT OPINION
18 February 2016

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TABLE OF CONTENTS

Capital Structure 1
Summary Rating Rationale 1
Credit Strengths 2
Credit Challenges 2
Key Characteristics 3
Assets Overview 3
Assets Description 4
Assets Analysis 7
Additional Assets Analysis 11
Securitization Structure Overview 12
Securitization Structure Description 12
Securitization Structure Analysis 14
Methodology and Monitoring 16

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016A

Presale Report - Long Island Power Authority-Sponsored Securitization of Utility Cost Recovery Charge Assets

Capital Structure

Exhibit 1
Provisional (P) Ratings*

Series	Expected Amount	Tax Status	Interest Rate	Legal Maturity**	Provisional Ratings
2016A	[$381,730,000]	Tax-Exempt	Fixed	[12/15/2028]	(P) Aaa (sf)

The ratings address the expected loss posed to investors by the legal final maturity date. In Moody's opinion, the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the securitization. Other non-credit risks have not been addressed, but may have a significant effect on yield to investors.
* Principal amounts and legal maturity dates are preliminary and subject to change
** Reflects the latest legal maturity date among the tranches in the series
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016, and Moody's Investors Service

Summary Rating Rationale

The Utility Debt Securitization Authority (the issuer) intends to issue Restructuring Bonds, Series 2016A. The bond issuance will enable the Long Island Power Authority (LIPA, Baa1 stable) to retire a portion of its outstanding debt. This will be the third utility cost recovery charge (UCRC) securitization that LIPA has sponsored since 2013. These bonds are backed by restructuring property which consists of, among other things, the right to impose usage-based restructuring charges on all current and future retail electric customers in LIPA's service area.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of LIPA's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 18 February 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

and diversity of the ratepayer base in LIPA's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the 2016A restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of Legislation and Financing Order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015 permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other UCRC securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to UCRC bondholders that it will not 1) take or permit any action that limits, alters or impairs the value of the restructuring property, or 2) except as required by the adjustment mechanism, reduce, alter or impair restructuring charges until the bonds have been repaid in full (the state pledge). In addition, the LIPA Reform Act and financing order contain the typical strong true-sale and security interest provisions.

LIPA's irrevocable financing order authorizes the creation of restructuring property, which grants the issuer the irrevocable right to impose, bill and collect irrevocable, non-bypassable restructuring charges based on electricity usage from all of LIPA's existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

The financing order authorizes LIPA to recover the costs of retiring certain of its outstanding debt and the issuer to recover the costs of issuing, supporting and servicing the bonds. The issuer will recover these costs by collecting restructuring charges until the bonds are repaid in full, without any specified time limit.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually, and if necessary, semiannually (and quarterly after the last scheduled maturity date of the bonds of any series), in each case to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time without limitation as to frequency, if the servicer deems necessary to ensure timely bond payments. New to the 2016A transaction, the servicer may elect to perform an additional voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). Also, the timing of the mid-year and annual true-ups has changed to help smooth charges over the course of the year.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in LIPA's service area is a credit strength. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (89%) and commercial customers (10%). Unlike most other UCRC securitizations, the service area includes very few industrial customers, which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Credit Challenges

Challenges to LIPA Reform Act and Financing Order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the securitizable restructuring property; however we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the LIPA Reform Act. Therefore, the only way to repeal or amend the LIPA Reform Act, or for LIPA to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws

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prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

Potential for Insufficient Collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration and self-generation. PSEG-LI's estimates of market demand, energy prices and growth within LIPA's service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur annually, semiannually and on an interim basis as needed.

Relatively High Restructuring Charge: LIPA expects the securitization's initial restructuring charge to represent around [0.79%] of the total monthly bill that an average 1,000 kilowatt hour (kWh) residential customer in LIPA's service area will receive as of June 1, 2016. The initial restructuring charge for the 2016A transaction, combined with the current restructuring charge for the 2013 and 2015 transactions, is expected to represent approximately [6.91%] of a typical residential customer's bill, and is relatively high compared to other utility cost recovery transactions. This concern is mitigated by LIPA's securitization offset rider, which reduces LIPA's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Exhibit 2

Asset Characteristics

Assets:	Restructuring property consisting of the issuer's irrevocable right to impose, charge and collect irrevocable, non-bypassable usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up adjustment mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full
Service Area:	Approximately 1.1 million customers in Nassau and Suffolk counties[1] and the Rockaway Peninsula

1. Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	[$381,730,000]1
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Collection Accounts and Debt Service Reserve Account
Sponsor/Seller/Initial Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority, a special purpose corporate municipal instrumentality of the State of New York
Operations Agent:	PSEG-Long Island
Trustee:	Bank of New York Mellon (Aa1/Aa2 stable, a1) 2

1. Preliminary and subject to change based on market conditions
2. The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Offering Statement dated February 18, 2016

Assets Overview

The collateral for this pool is the restructuring property consisting of the irrevocable right to impose, charge and collect non-bypassable, usage-based restructuring charges from all existing and future retail electric customers in LIPA's service area, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow LIPA to finance the retirement of a portion of its outstanding debt through the issuer's issuance of restructuring bonds, resulting in savings to LIPA's customers on a net present value basis. The securitization law gives LIPA the right to impose restructuring charges, which are the key asset of this securitization.

Prior to the legislature's amendment of the securitization law on March 26, 2015, the law permitted only one issuance of restructuring bonds by the issuer, and that issuance took place in December 2013 pursuant to Financing Order No. 1. The amended securitization law permits LIPA's Board of Trustees to adopt additional financing orders to, among other things, authorize the creation of additional restructuring property and the issuance of additional restructuring bonds in an aggregate additional amount not to exceed $4.5 billion (inclusive of the $2,022,324,000 previously issued 2013 restructuring bonds and the $1,002,100,000 previously issued 2015 restructuring bonds). After the 2016A issuance, LIPA will have authority to issue an additional [$1,093,846,000] billion of restructuring bonds under the securitization law.

Specifically, the securitization law coupled with the financing order authorizes LIPA to sponsor multiple bond issuances to finance the recovery of the costs of retiring a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds.

Similar to other UCRC securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that will be incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

Specifically, the State of New York pledges to and agrees with the bondholders, the issuer and LIPA that the State will not in any way: 1) take or permit any action that limits, alters or impairs the value of the restructuring property; or 2) except as required by the adjustment mechanism authorized by the securitization law and set forth in the financing order, reduce, alter or impair restructuring charges that are imposed, collected and remitted for the benefit of the bondholders until all principal of and interest on the bonds and all ongoing financing costs have been repaid in full.

The state pledge provides protection to bondholders; to the extent LIPA or the State of New York have obligations under the financing order, the LIPA Reform Act provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to change the securitization law would be through a legislative action which would be subject to the state pledge.

The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims.

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

Hawkins Delafield & Wood LLP, LIPA's special counsel, will provide a legal opinion prior to securitization closing to the effect that the bondholders (or the trustee acting on their behalf) could successfully challenge under the contracts clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Hawkins Delafield & Wood LLP, LIPA's bond counsel, will provide a legal opinion prior to securitization closing to the effect that under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The Financing Order

The securitization law authorizes LIPA's securitization program, while a separate financing order implements each issuance of bonds under the program.

On June 26, 2015, LIPA Trustees adopted Financing Order No. 3 (the financing order), together with Financing Order No. 2 and Financing Order No. 4 and on July 15, 2015, the New York Public Authorities Control Board approved them. On August 14, 2015, they became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, and the 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property.

The issuer is issuing the 2016A restructuring bonds pursuant to Financing Order No. 3, which authorizes: 1) the creation of the 2016A restructuring property; 2) LIPA to sell the 2016A restructuring property to the issuer under the financing order (the 2016A restructuring property is created simultaneously with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the 2016A restructuring property from LIPA and pay upfront financing costs; and 6) LIPA to use the proceeds of the sale of the 2016A restructuring property to retire a portion of its outstanding debt

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with LIPA setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of LIPA to review and approve the issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The 2016A Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and non-bypassable restructuring charges from all of LIPA's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism to ensure the expected collection of amounts sufficient to pay the amounts specified above on time. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from LIPA's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the Public Service Commission.

Restructuring Charges are Non-Bypassable

The securitization law provides that the restructuring charges are non-bypassable. "Non-bypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (LIPA's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if LIPA no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

Self-Generation in the Service Area is Low

Self-generation, which primarily includes solar and wind, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Self-generation is currently very small in the service area at roughly 0.3% of energy sales. LIPA forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. Certain customers that self-generate will only be responsible for paying restructuring charges based upon their "net-billed" consumption.

Municipalization

Municipalization, or the transfer of the T&D system assets to a municipal owner, would not affect restructuring charge collections because the customers are required to pay the restructuring charges even if the T&D system assets are no longer owned by LIPA. Since 1998, no municipalizations have occurred.

The Service Area

LIPA provides electric transmission and distribution services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which LIPA provided electric transmission and distribution services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. Of these, approximately 89.3% were residential, 10.2% commercial (with very few industrial customers), 0.5% street lighting and 0.0% other public authorities; the average number of customers has been fairly stable over the last 10 years, with very small year-over-year changes ranging from -0.2% to 0.7%. Retail electric usage was 48.2% residential, 48.8% commercial, 0.7% street lighting and 2.2% other public authorities.

In the year ending December 31, 2015, LIPA's largest customer, the Long Island Rail Road, accounted for less than 2.0% of LIPA's total sales, and LIPA's top 10 customers accounted for approximately 7.0% of LIPA's total sales.

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs (the revenue requirement)

3. mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
5. more frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. after the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Under the financing order, the adjustments are to be based on actual charge collections and the servicer's updated assumptions for projected future charge collections, projected uncollectibles and loss in collection of billed charges, and future payments and expenses relating to the restructuring property and the bonds.

No Third-Party Billing/Collection of Charges

Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor regulator, and any owner of the T&D system assets will take steps to ensure non-bypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor regulator will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

Assets Analysis

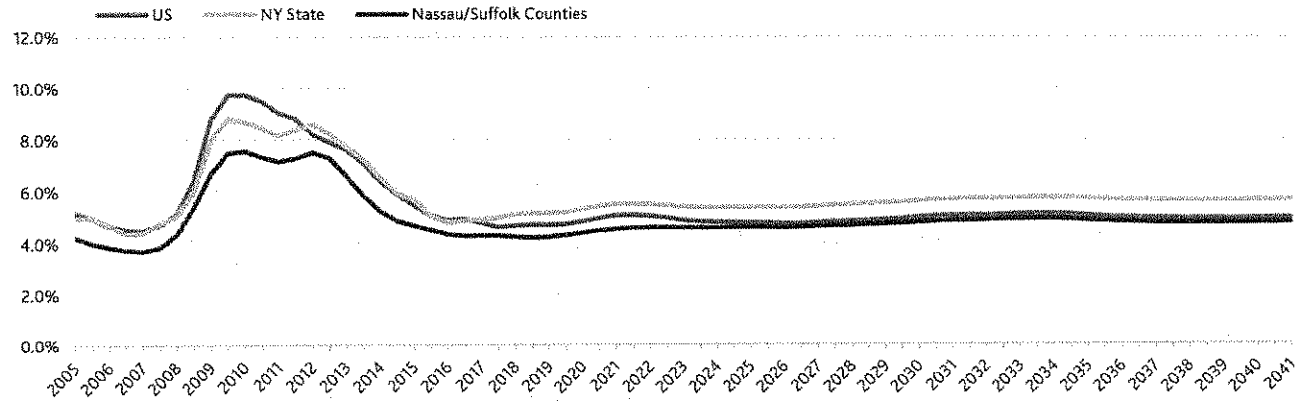
Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, 19 colleges and universities and core research institutions, such as Brookhaven National Laboratory, Cold Spring Harbor Laboratory, and the technology and science developmental centers at Stony Brook and Farmingdale Universities that specialize in the areas of biotechnology, computer sciences, wireless and internet technologies, and energy.

Long Island's median household income is substantially above that of New York and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $98,401 and $88,323, respectively, considerably higher than the $58,687 for New York and the $53,482 for the US. According to LIPA, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 4 shows that the Nassau-Suffolk unemployment rate is lower than that of the US, and we forecast the rate will remain lower.

Exhibit 4
Unemployment Rate*



* Data does not include the Rockaways, Queens, which is also part of the service area.
Source: US Bureau of Labor Statistics and Moody's Analytics

Exhibit 5 shows Moody's Analytics' forecasted average year-over-year changes in various economic stability measures for the service area, compared with New York and the US. The data include Nassau and Suffolk counties, but exclude the Rockaways in Queens, NY. The exhibit shows that forecasted population growth will be relatively flat.

Exhibit 5
Forecasted Average Year-Over-Year Changes in Population and Economic Stability Measures
(Data for 2016-2041, the scheduled maturity date of the bonds)

	Nassau-Suffolk *	New York	US
Population	0.1%	0.1%	0.7%
Households	0.3%	0.4%	0.9%
GDP (Chained 2009 $)	1.6%	1.4%	2.0%
Per Capita Income	3.3%	3.6%	3.6%
Employment (non-farm payroll)	0.5%	0.5%	0.8%

* Does not include the Rockaways, Queens, which is part of the service area
Source: Moody's Analytics

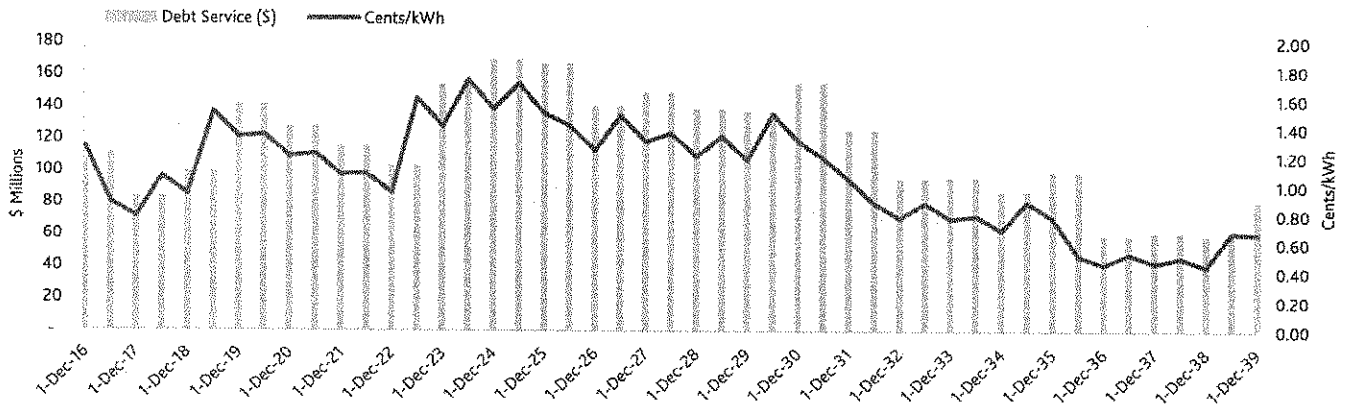
Remote Risk of Severe Ratepayer Base Declines

The securitization's performance is exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's diverse ratepayer base.

LIPA expects the combined initial restructuring charge for the 2013, 2015 and 2016A transactions to be around [6.91%] of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 1, 2016, which is higher than most other UCRC securitizations we rate. The [6.91%] is preliminary and subject to change based on market conditions.

Exhibit 6 shows LIPA's expected restructuring charge, which is the same for all customer classes, and annual debt service of the bonds over the securitization's life. The exhibit shows that the restructuring charge will vary over time to cover the unlevel debt service of the bonds, which mirrors the unlevel debt service of the retired LIPA bonds.

Exhibit 6
Restructuring Charge (Cents/kWh) and Annual Debt Service*



* Preliminary and subject to change based on market conditions.
Source: LIPA; Moody's calculations

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a typical residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand.

Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. That is more likely the higher the charges, i.e., the more the economic incentive for a challenge or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the cost recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Typically the percentage of a residential customer's monthly bill devoted to the cost recovery charge is less than 10%.

We looked at three scenarios. In our base case, we assumed 1) electricity consumption as per LIPA's projections, 2) annual net charge-offs as per LIPA's projections, 3) collection curve as per LIPA's projections and 4) actual servicing fee and other expenses (Scenario A).

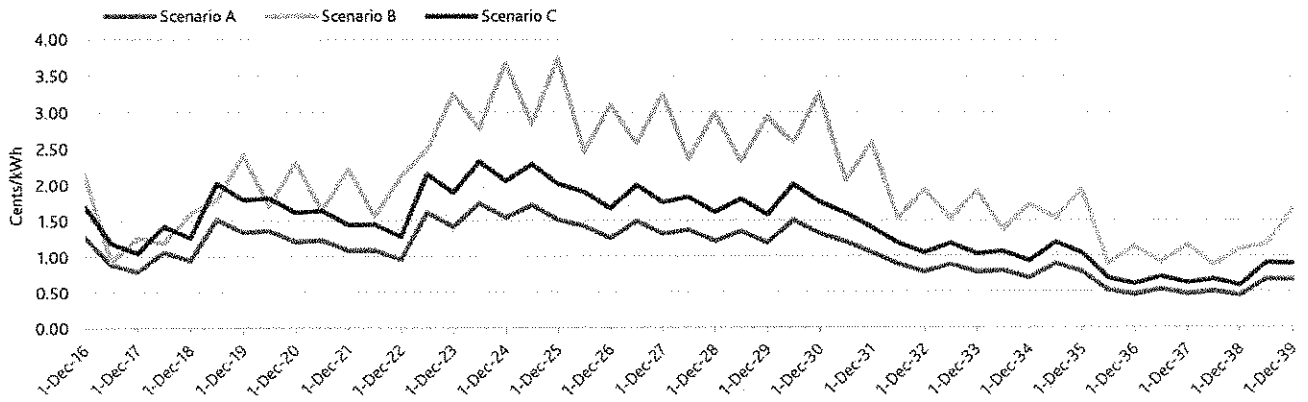
In our first stress scenario, we assumed 1) electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers, 2) annual net charge-offs are the same as in base case, 3) collection curve is the same as in base case, 4) loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year and 4) replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case (Scenario B).

In our second stress scenario, we assumed 1) electricity consumption is reduced by 25% permanently against the first year base case projection, 2) annual net charge-offs the same as in base case, 3) collection curve is the same as in base case and 4) servicing fee and all other fees the same as in base case (Scenario C).

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 7 shows the projected restructuring charges for customers in cents per kWh, and Exhibit 8 shows the projected restructuring charge as a percentage of the typical residential customer's total bill assuming monthly usage of 1,000 kWh over the securitization's life.

Exhibit 7

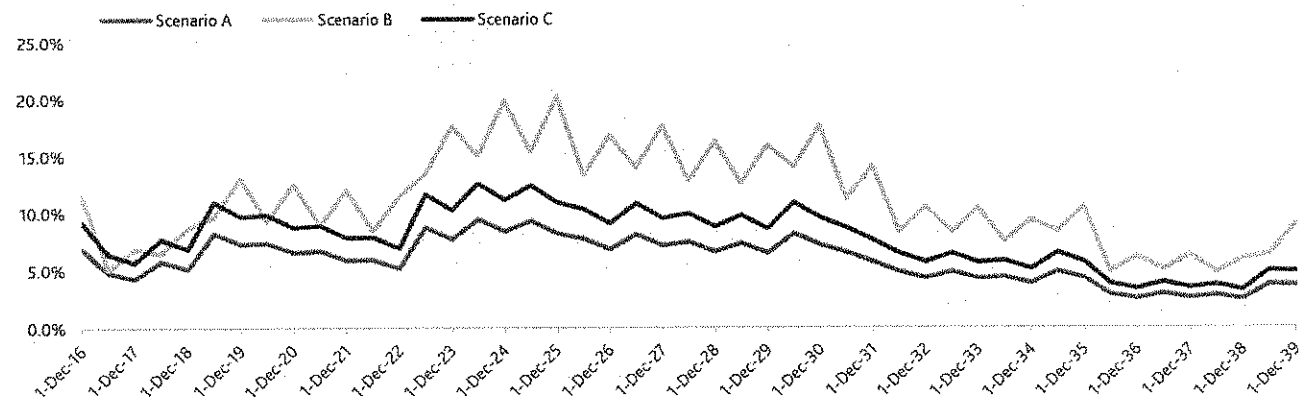
Restructuring Charge (Cents/kWh)



Source: LIPA and the servicers; Moody's calculations

Exhibit 8

Restructuring Charge as a Percentage of a Typical Residential Customer's Total Bill



Source: LIPA and the servicers; Moody's calculations

Forecasting Electricity Consumption

The company monitors the accuracy of each forecast by conducting variance analysis on a monthly basis taking into account weather impacts on kWh sales and deviations from forecast within the customer count. LIPA factors the impact of weather and the growth in self generation, energy efficiencies and the use of electric vehicles into its forecasts.

Exhibit 9 shows LIPA's annual forecast variance for ultimate electric delivery by customer class.

Exhibit 9

Annual Forecast Variance for Ultimate Electric Delivery (MWh)

	2011	2012	2013	2014	2015
Residential	4.3%	-2.4%	-2.7%	-4.3%	0.5%
Commercial	-1.0%	-3.6%	-2.4%	-1.7%	-2.1%
Street Lighting	0.2%	-2.2%	-4.4%	1.7%	-3.8%
Other Public Authorities	5.5%	-13.6%	-4.2%	3.1%	2.5%
Total	1.6%	-3.2%	-2.6%	-2.8%	-0.8%

Note: Negative variance means that the actual electric delivery is lower than the forecasted electric delivery.
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Additional Assets Analysis

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, LIPA or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

PSEG LI will perform, and is capable of performing, LIPA's key servicing duties, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among other things. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

PSEG is a publicly traded energy and energy services company. As of September 30, 2015, it had total assets of approximately $36.5 billion, latest twelve months revenues of approximately $10.9 billion; and employed approximately 12,700 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company (PSE&G), New Jersey's largest regulated electric and gas transmission and distribution utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets, pursuant to the securitization documents.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Loss Experience

Exhibit 10 shows the annual net charge-offs for LIPA, including net charge-offs of customers as part of LIPA's annual charge-off reconciliation process.

Exhibit 10

Net Charge-Offs as a Percentage of Total Billed Retail Electricity Service Revenues

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Billed Electric Revenues ($000)	3,620,532	3,413,091	3,834,255	3,753,765	3,572,133
Net Charge-Offs ($000)	24,753	19,750	20,969	24,659	23,948
Percentage of Billed Revenue	0.68%	0.58%	0.55%	0.66%	0.67%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Days Sales Outstanding

Exhibit 11 shows the average number of days that LIPA's bills remained outstanding during each of the calendar years below.

Exhibit 11

Average Days Sales Outstanding

	As of 12/31/2011	As of 12/31/2012	As of 12/31/2013	As of 12/31/2014	As of 12/31/2015
Average Days Sales Outstanding	38.55	39.23	39.40	37.13	36.78

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Delinquency Experience

Exhibit 12 shows the delinquency experience of LIPA during each of the calendar years below.

Exhibit 12
Average Monthly Delinquencies of Total Annual Billed Retail Electricity Delivery Service Revenues

	2011	2012	2013	2014	2015
30-59 days	$ 52,766	$ 50,348	$ 59,196	$49,980	$42,775
60-89 days	$ 28,940	$ 28,018	$ 32,104	$24,937	$21,223
90+ days	$108,208	$116,791	$135,828	$86,419	$87,580

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Securitization Structure Overview

LIPA intends to issue one series of tax-exempt, fixed rate bonds, Series 2016A, secured by the collateral on a pari passu basis. Some of the Series 2016A Bonds will be serial bonds, while others will be term bonds, with the term bonds subject to mandatory sinking fund payments. The issuer will have the option to redeem the Series 2016A Bonds with a legal final maturity date on or after [ ], in whole or in part and in any order, on and after [ ]. *All dates in this paragraph will be determined prior to closing.*

Securitization Structure Description

Bond Structure

The issuer will make payments on the bonds semiannually, on June 15 and December 15 of each year, beginning in December 2016. Interest will be paid pro rata among the tranches.

All tranches of bonds will be paid pro rata if the bonds are accelerated following an event of default under the indenture. Partial payments of any scheduled payments will be allocated pro rata between tranches of bonds with the same legal final maturity date.

Optional Redemption

The issuer will not have the option to redeem the Series 2016A Bonds with a final maturity date prior to [ ]. The issuer will have the option to redeem the Series 2016A Bonds with a final maturity date on or after [ ], in whole or in part and in any order, on and after [ ], at a redemption price of 100% of the principal amount of the Series 2016A Bonds to be redeemed, plus accrued interest to the redemption date. *All dates in this paragraph will be determined prior to closing.*

Indenture Accounts

The trustee will hold the collection account in its name and will deposit the restructuring charge collections and all other amounts it receives with respect to the collateral. The collection account will consist of five subaccounts: the general subaccount, the excess funds subaccount, the operating reserve subaccount, the debt service reserve subaccount and the upfront financing cost subaccount.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other ongoing financing costs to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;

6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;
7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates.

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

The annual true-up adjustment will be calculated to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment.

Events of Default

The Events of Default under the indenture are:

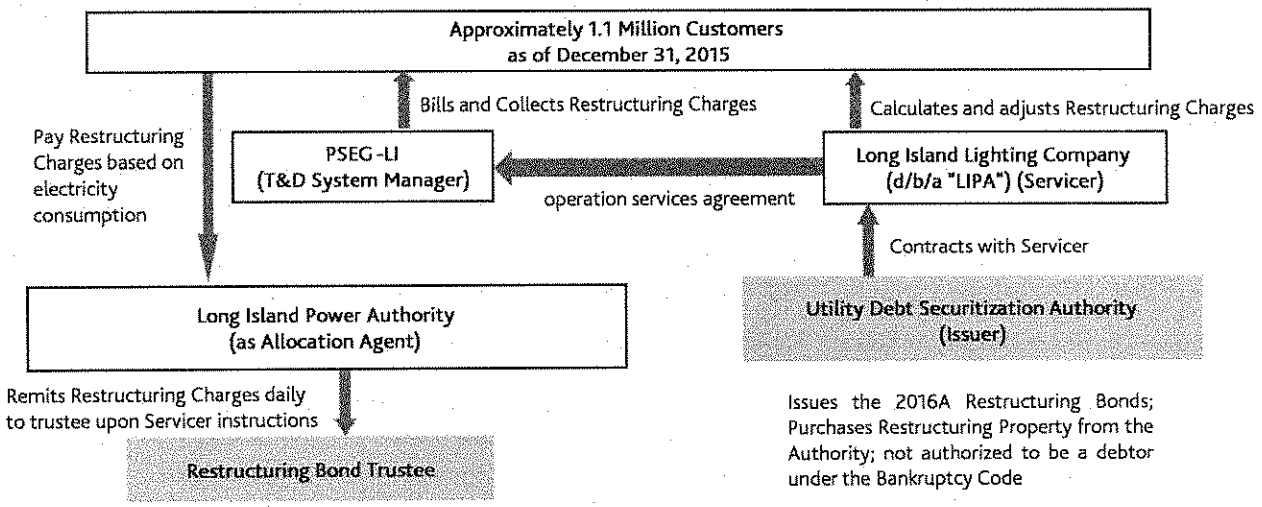
1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period); or
5. an action violating the financing order or state pledge.

Securitization Structure Analysis

Securitization Parties and Responsibilities

Exhibit 13 provides a general summary of the key securitization parties, their roles and their various relationships to the other parties.

Exhibit 13
Securitization Parties and Responsibilities

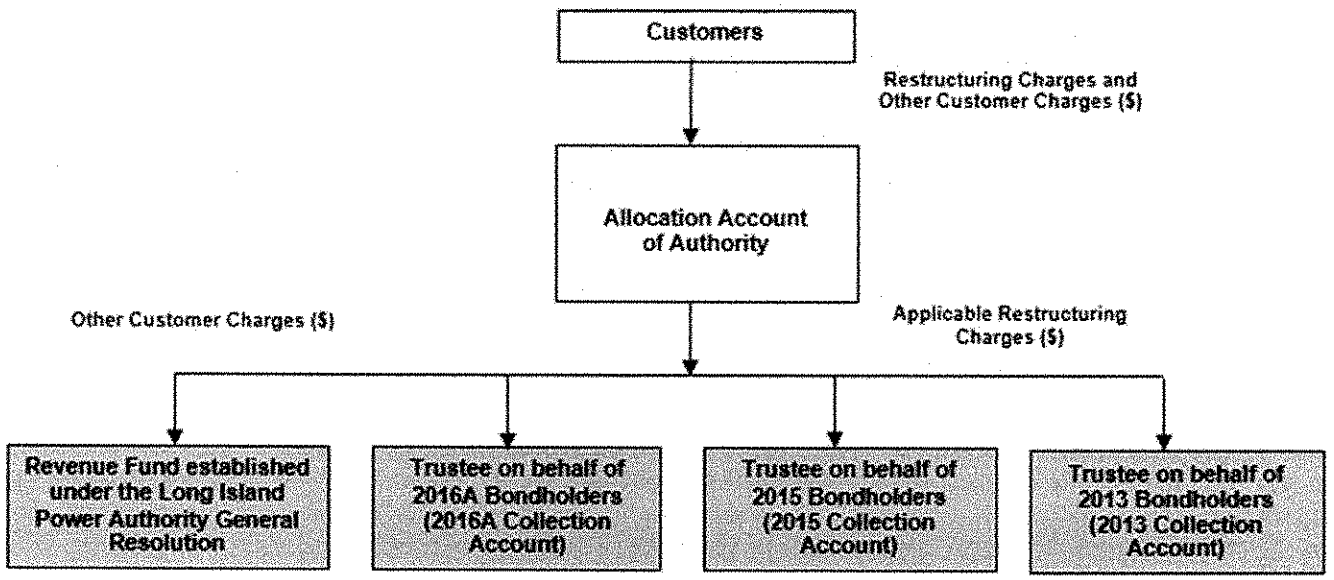


Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Flow of Funds

Exhibit 14 shows a general summary of the securitization's flow of funds: PSEG-LI will bill and collect the restructuring charges from LIPA's customers on behalf of the servicer. The servicer will be required to cause all customer payments (including restructuring charge collections) to be deposited into the allocation account, which LIPA established to hold all payments until the checks clear. Initially, the account will be held by J.P. Morgan Chase Bank. If customers make payments directly to the servicer instead of to the allocation account, the servicer must remit such payments to the allocation account within two business days' receipt by the servicer or LIPA. LIPA, as allocation agent, will control and administer the allocation account for the benefit of the trustee for the holders of the bonds and the trustee for the holders of LIPA bonds. On each business day, the allocation agent must transfer to the collection account the amount of restructuring charge collections that the servicer estimates to have been received and deposited into the allocation account on such day.

Exhibit 14
Flow of Funds



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016A Preliminary Official Statement dated February 18, 2016

Legal Structure

The primary steps of the securitization are as follows:

1. The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under chapter 9 or any other provision of the Bankruptcy Code. The securitization law formed the issuer solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.
2. The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from LIPA and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.
3. LIPA will use the proceeds from the sale of its restructuring property to retire certain of its outstanding debt. LIPA will act as the servicer of the restructuring property under a servicing agreement with the issuer and as the issuer's administrator under an administration agreement with the issuer. PSEG-LI will act as LIPA's service provider and will perform LIPA's key servicing duties under an operations servicing agreement with LIPA.

Sponsor and Seller

LIPA will be the securitization's sponsor and the seller of the restructuring property. LIPA is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a chapter 9 debtor pursuant to its enabling legislation.

LIPA took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of LIPA through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

LIPA is governed by a Board of Trustees (LIPA Trustees) and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. LIPA is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

Pursuant to LILCO's organizational documents, LIPA conducts and manages LILCO's business and affairs. Accordingly, LILCO is controlled by LIPA.

LIPA and LILCO are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LILCO conducts the electric business in the service area and is responsible for providing service to customers in the service area. LIPA and LILCO are also parties to an administrative services agreement pursuant to which LIPA provides personnel, personnel-related services and other services necessary for LILCO to provide electric service in the service area.

To assist LIPA (acting through LILCO) in providing electric service in the service area, LIPA and LILCO have entered into operating agreements to provide them with the operating personnel and a significant portion of the power supply resources necessary for LILCO to continue to provide such electric service. From 1998 through 2013, National Grid plc, certain of its subsidiaries (National Grid subs) or their predecessors performed most such operations.

Beginning in 1998, a National Grid sub was the manager of LILCO's electric T&D system under a management services agreement which expired at the end of 2013. Beginning January 2014, PSEG-LI assumed the role from the National Grid sub. T&D system management services include, among other functions, the day-to-day operation and maintenance of the T&D system, customer service, billing and collection, meter reading and forecasting energy consumption.

In July 2013, New York Governor Andrew Cuomo signed the LIPA Reform Act, codified as Chapter 173, Laws of New York, into law. On March 30, 2015, the New York State Assembly and Senate adopted Chapter 58 of the Laws of New York, 2015, which amended the LIPA Reform Act to authorize the issuer to issue additional restructuring bonds. On April 13, 2015, the Governor signed Chapter 58 into law. On May 13, 2015, the time for filing any challenges to the LIPA Reform Act, as amended, expired and no such challenges were filed.

The LIPA Reform Act effectively shifted the major operational and policy-making responsibilities for the T&D system, including significant responsibilities relating to capital expenditures, budgets and emergency response, from LIPA to PSEG-LI. PSEG-LI's scope of services and LIPA's reserved rights have been adjusted to reflect the shift in operations, management and policy making responsibilities while enhancing LIPA's oversight rights. The LIPA Reform Act also requires that staffing be kept at levels only necessary to ensure that LIPA is able to meet obligations with respect to its bonds and notes and all applicable statutes and contracts, and to oversee the activities of PSEG-LI.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

MOODY'S INVESTORS SERVICE

CREDIT OPINION
29 July 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Utility Debt Securitization Authority Restructuring Bonds, Series 2016B

Long Island Power Authority-Sponsored Utility Cost Recovery Bonds

Capital Structure

Exhibit 1

Provisional (P) Ratings*

Series	Provisonal Rating	Expected Amount	Tax Status	Coupon	Payment Frequency	Expected Maturity	Legal Final Maturity**
Series 2016B	(P)Aaa (sf)	$475,000,000	Tax Exempt	Fixed	Semi-annual	12/15/2033	12/15/2035

The ratings address the expected loss posed to investors by the legal final maturity. In our opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Our ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.

* Principal amounts and legal maturity dates are preliminary and subject to change

** Reflects the latest legal maturity date among the tranches in the series

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Summary Rating Rationale

We have assigned provisional ratings to the single series of bonds (Series 2016B bonds, or the bonds) that Utility Debt Securitization Authority (the issuer) will issue. The Long Island Power Authority ("the Authority", Baa1 stable), which is a corporate municipal instrumentality and a political subdivision of the State of New York, is sponsoring the transaction. The Authority wholly owns the Long Island Lighting Company (doing business as "LIPA", the servicer), which provides electric transmission and distribution services in most of Nassau and Suffolk counties and a portion of Queens county. New York State legislation formed the issuer to securitize a special charge (the restructuring charge) imposed on the Authority's customers' utility bills. The Authority will use the proceeds of the securitization to retire a portion of its outstanding debt. The Series 2016B bonds will be the fourth utility cost recovery bonds sponsored by the Authority since 2013.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 28 July 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

The primary collateral backing the Series 2016B bonds is the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area (the restructuring property). New York State legislation, along with an irrevocable financing order adopted by the Authority on June 26, 2015, authorizes the creation of the restructuring property.

Our provisional ratings on the bonds reflect our assessment of (1) the strength of the State of New York's legislation including the State's non-impairment pledge, which strongly protects the restructuring property backing the bonds; (2) the strength of the Authority's irrevocable financing order authorizing the creation of the restructuring property; (3) the size, stability and diversity of the ratepayer base in the Authority's service area; (4) the ability and experience of LIPA, who is responsible for the billing and collection of the restructuring charges, as the initial servicer of the restructuring property, and of PSEG Long Island LLC (PSEG-LI), who will perform LIPA's key servicing functions; and (5) the credit enhancement supporting the bonds in the form of a mandatory uncapped true-up mechanism that periodically adjusts the restructuring charges to ensure timely bond payments until the bonds are repaid in full, a non-declining operating reserve account and a debt service reserve account.

Credit Strengths

Strength of legislation and financing order: The State of New York's legislation (Part B of the LIPA Reform Act, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on August 14, 2015, permits the securitization and strongly protects the restructuring property securing the bonds. Similar to other utility cost recovery charge securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of New York pledges to bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order (the state pledge). In addition, the securitization and financing order contain the typical true-sale and security interest provisions.

The Authority's irrevocable financing order authorizes the Authority to recover specified costs of retiring its corporate debt by collecting restructuring charges. The restructuring property grants the issuer the irrevocable right to impose, bill and collect irrevocable, nonbypassable restructuring charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. Nonbypassable refers to the requirement that the charges be levied on all of the Authority's existing and future retail electric customers receiving transmission and distribution services in its service area, including customers of any Authority successor or assignee.

True-up adjustment mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts restructuring charges annually and, if necessary, semiannually, to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments at any time if the servicer deems necessary to ensure timely bond payments. The servicer may also elect to perform a voluntary mid-year true-up adjustment to decrease charges to customers to correct for overcollections in any year (in addition to the requirement that the servicer perform a mandatory mid-year adjustment to increase charges to customers to correct for undercollections). This voluntary mid-year adjustment helps reduce the volatility of the restructuring charge to customers. The inclusion of an operating reserve account and a debt service account provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between true-ups.

Affluent ratepayer base: The size, economic stability and diversity of the ratepayer base in the Authority's service area are credit strengths. The service area is fixed by the securitization law and primarily includes the Long Island counties of Nassau and Suffolk, which are two of the most affluent counties in the United States. The service area primarily includes a mix of residential customers (54% by revenue) and commercial customers (43% by revenue).

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

Experienced servicer: LIPA has considerable prior servicing experience with restructuring charges, including acting as servicer for the Authority's three outstanding utility cost recovery charge securitizations.

Although LIPA is the named servicer for this securitization, PSEG Long Island LLC (PSEG-LI, unrated), a subsidiary of Public Service Enterprise Group Incorporated (Baa2, positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others. PSEG-LI currently performs these same functions for the three outstanding utility cost recovery charge securitizations sponsored by the Authority. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

Credit Challenges

Challenges to securitization law and financing order: Potential state and federal legislative and regulatory actions could weaken the strength of the legal protections of the restructuring property. However, we view this risk as remote. New York does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for the Authority to amend or revoke the financing order, would be through a legislative action which would violate the state pledge. The risk that the State of New York would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered. Several past challenges to securitization laws such as this in other jurisdictions have been unsuccessful.

Potential for insufficient collections: Collections arising from the restructuring property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. The Authority's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, by which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments are required to occur annually and can occur semi-annually and at the discretion of the servicer on an interim basis as needed.

Relatively high restructuring charge: The Authority expects the securitization's initial restructuring charge to represent around 2.55% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in the Authority's service area will receive as of June 15, 2017. The initial restructuring charge for the 2016B transaction, combined with the current restructuring charge for the 2013, 2015 and 2016A transactions, is expected to represent approximately 7.8% of a 1,000 kWh residential customer's bill. This percentage charge is relatively high compared to charges in other utility cost recovery bond transactions. For context, the three most recent utility cost recovery bond issuances we rated, Duke Energy Florida Project Finance, LLC, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 2.5%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively. A high cumulative recovery charge could incentivize a legal challenge to the restructuring charges or the securitization law, or could increase political pressure to rescind or change the securitization law through legislation. This concern is mitigated by the Authority's securitization offset rider, which reduces the Authority's delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Restructuring property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from the Authority or its successors or assignees
Service Area:	The Authority's service area covers approximately 1.1 million residential, commercial customers in Nassau and Suffolk counties* and the Rockaway Peninsula

*Excludes the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Tax-exempt, fixed rate bonds with semi-annual payments
Amount:	$475,000,000*
Structure:	Discrete trust
Credit Enhancement:	Mandatory uncapped true-up mechanism; operating reserve account (0.5%); debt service reserve account (1.5%)
Transaction Parties	
Sponsor/Depositor/Servicer:	Long Island Power Authority (Baa1 stable)
Issuer:	Utility Debt Securitization Authority
Transmission and Distribution System Manager:	PSEG Long Island LLC (unrated)
Trustee:	The Bank of New York Mellon Trust Company, National Association (Aa1/Aa2 stable, a1)**

*Preliminary and subject to change based on market conditions
**The bank ratings shown in this report are the banks' deposit ratings and senior unsecured debt ratings and outlooks, and their baseline credit assessments
Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Overview

The collateral for this pool is the restructuring property, consisting of the irrevocable contract right to impose, bill and collect nonbypassable consumption-based restructuring charges from all existing and future retail electric customers taking electric transmission or distribution service within the Authority's service area.

The bonds are also secured by funds on deposit in the collection account, including the debt service reserve subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds with respect to the pledged collateral.

Assets Description

The Securitization Law

The purpose of the securitization law is to create the issuer and allow the Authority to finance the retirement of a portion of its outstanding debt through the issuance of restructuring bonds by the issuer, resulting in savings to the Authority's customers on a net present value basis. The securitization law gives the Authority the right to impose restructuring charges, which is the key asset backing this securitization.

The securitization law, coupled with the adoption of additional financing orders, authorizes the Authority to create additional restructuring property as collateral for the issuance of bonds. The Authority will use this issuance to retire a portion of its outstanding debt and financing costs, including the costs of issuing, supporting and servicing the bonds. The current financing order allows for an aggregate amount not to exceed $4.5 billion (inclusive of the previously-issued bonds: $2,022,324,000 in 2013, $1,002,115,100 in 2015 and $636,770,000 in 2016). After the Series 2016B issuance, the issuer has capacity issue an additional $363.8 million of restructuring bonds under the initial authorization.

Similar to other utility cost recovery charge securitizations, this securitization benefits from the securitization law's inclusion of a state non-impairment pledge, subject to the true-up mechanism, that is incorporated into the securitization documents for the benefit of the trustee on behalf of bondholders. A breach of such pledge triggers an event of default under the indenture.

The Financing Order

On June 26, 2015, the Authority adopted Financing Order No. 4 (the financing order), together with Financing Order No. 2 and Financing Order No. 3; all of which were approved by the New York Public Authorities Control Board on July 15, 2015. On August 14, 2015, the financing orders became irrevocable, final and non-appealable. Each financing order authorizes restructuring bonds that will be secured by a separate restructuring property that would be created pursuant to that financing order.

Similarly, the Series 2013 restructuring bonds that the issuer issued pursuant to Financing Order No. 1 are secured by the 2013 restructuring property, the Series 2015 restructuring bonds that the issuer issued pursuant to Financing Order No. 2 are secured by the 2015 restructuring property and the Series 2016A restructuring bonds that the issuer issued pursuant to Financing Order No. 3 are secured by the 2016A restructuring property.

The issuer is issuing the bonds pursuant to the financing order, which authorizes: 1) the creation of the restructuring property; 2) the Authority to sell the restructuring property to the issuer under the financing order (the restructuring property is created simultaneous with its sale to the issuer); 3) the imposition, billing and collection of restructuring charges on, to and from the customers in the service area; 4) the issuance of the bonds by the issuer; 5) the issuer to use the bond proceeds to purchase the restructuring property from the Authority and pay upfront financing costs; and 6) the Authority to use the proceeds of the sale of the restructuring property to retire a portion of its outstanding debt.

The securitization law provides that the financing order is irrevocable and is not subject to modification or termination. The financing order acknowledges the state pledge.

Prior to the issuance of the bonds, the financing order requires the servicer to file an issuance advice letter with the Authority setting forth: 1) the expected savings to customers from the securitization; 2) the estimated ongoing financing costs; 3) the initial restructuring charge; and 4) the final terms of the bonds. The financing order authorizes a designee of the Authority to review and approve the

issuance advice letter for the purpose of confirming that the stated terms are consistent with the financing order. The designee's approval will be final and incontestable.

The State Pledge

The securitization law includes a pledge from the State of New York to the bondholders that it will not (1) take or permit any action that limits, alters or impairs the value of restructuring property; or (2) reduce, alter or impair transition charges that are imposed, collected and remitted for the benefit of the owners of restructuring bonds, any assignee, and all financing entities, until any principal, interest and redemption premium in respect of restructuring bonds, all ongoing financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid or performed in full, except as required by the adjustment mechanism described in the restructuring cost financing order.

Any action of the New York legislature adversely affecting the restructuring charges or the ability to impose, charge or collect the restructuring charges would likely require the State of New York to pay just compensation under the "takings clause" of the United States and State of New York Constitutions.

The state pledge provides protection to bondholders. To the extent the Authority or the State of New York have obligations under the financing order (e.g. to file for true-up adjustments), the securitization law provides that the owner of the restructuring property (the issuer), or the trustee representing the bondholders, are expressly permitted to bring actions for enforcement of the financing order.

The Restructuring Charges

Under the financing order, the servicer (on behalf of the issuer as owner of the restructuring property) has the right to impose, bill and collect irrevocable and nonbypassable restructuring charges from all of the Authority's customers in an amount sufficient to: 1) pay interest on the bonds when due and principal of each tranche of bonds according to the related expected amortization schedule; 2) pay the fees and expenses of the securitizations' service providers; and 3) replenish the operating reserve and debt service reserve subaccounts to the required levels.

There is no cap on the level of restructuring charges that the servicer may impose on ratepayers through the true-up adjustment mechanism. This is designed to ensure the expected collection of amounts sufficient to timely pay the amounts specified above. Accordingly, the restructuring charges may continue to be imposed and collected until the bonds are repaid in full, without any specified time limit.

The financing order authorizes the servicer to collect restructuring charges directly from the Authority's customers. The restructuring charge will be the same for all customer classes. Under the securitization law, the charges and any adjustments thereto are not subject to review or regulation by the New York State Department of Public Service, the staff arm of the New York Public Service Commission.

The restructuring charges are nonbypassable; "nonbypassable" as set forth in the securitization law and the financing order means that the customer is obligated to pay the restructuring charges (and may not legally avoid payment of such charges) as long as such customer is connected to the transmission and distribution (T&D) system assets (the Authority's delivery system, which includes transmission and distribution lines and substations) and is taking electric delivery service in the service area, even if such customer produces its own electricity or purchases electric generation services from a provider of electric generation services other than the owner of the T&D system assets and even if the Authority no longer owns the T&D system assets. Thus, the only way customers can avoid restructuring charges is if they are fully cut off from the T&D system assets.

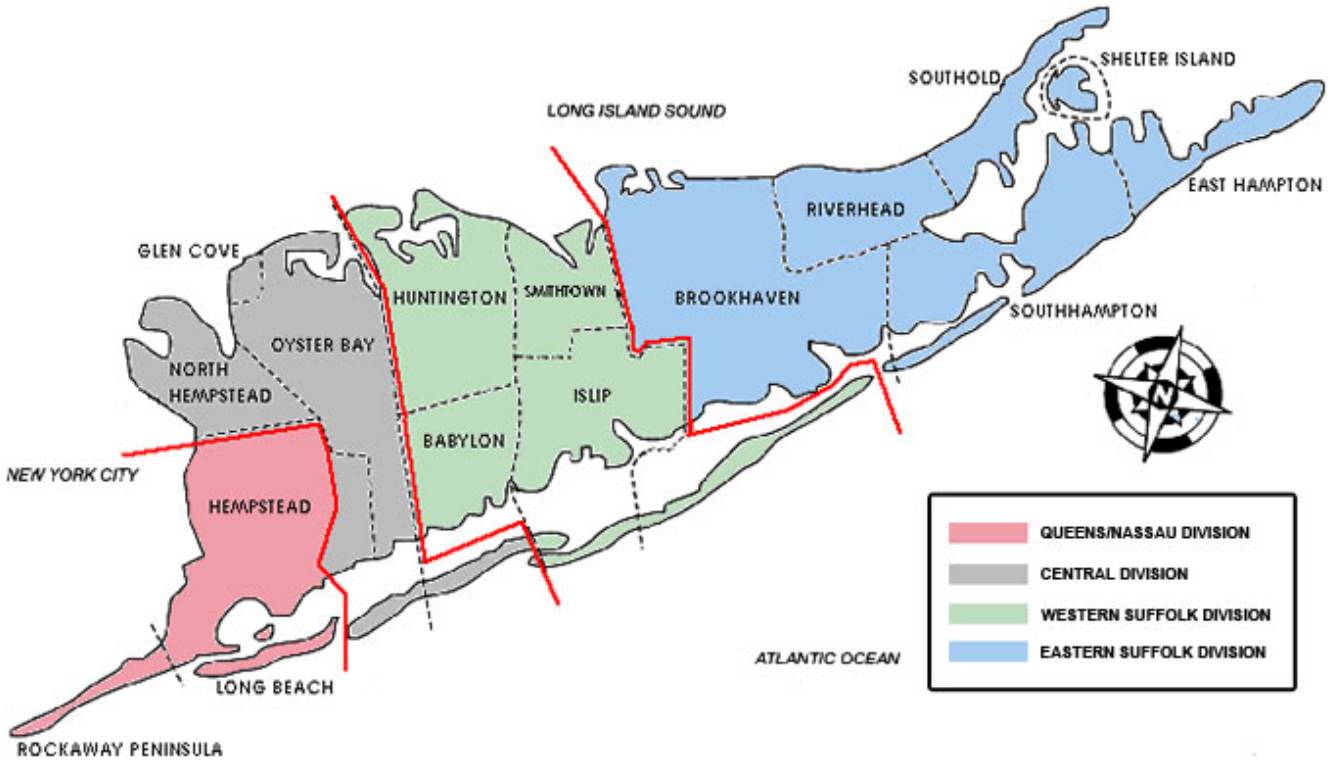
The Service Area

The Authority provides electric T&D services in its service area which includes two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. The population of the service area is around three million.

The securitization law defines the service area as the geographical area within which the Authority provided electric T&D services as of July 29, 2013. Thus, the service area is fixed by the legislation.

As of December 31, 2015, the service area included approximately 1.1 million customers. In 2015, retail electric usage was 54.4% residential, 43.5% commercial, 0.7% street lighting and 1.5% other public authorities. Exhibit 4 below shows the service area.

Exhibit 4
LIPA Service Area



Source: PSEG-LI website

Statutory Uncapped True-Up Adjustment Mechanism

Under the securitization law and the financing order, the servicer will adjust the restructuring charges through the securitization's true-up mechanism to ensure timely bond payments. The adjustments to the charges will continue until the bonds are repaid in full and there is no cap on the amount of charges that may be imposed on customers resulting from the adjustments.

The mechanics of the true-up adjustments are as follows:

1. Initial true-up adjustment to the restructuring charges will be made on November 15, 2016
2. Standard mandatory annual adjustments to the restructuring charges to correct for any over-collections or under-collections to date and anticipated to be experienced up to the date of the next annual adjustment and to ensure that the expected collections are sufficient to timely pay interest and scheduled principal (according to the expected amortization schedule) on the bonds and all other ongoing financing costs
3. Mandatory semiannual adjustments to the restructuring charges only if the servicer forecasts that charge collections will be insufficient to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
4. Voluntary semiannual adjustments to decrease the restructuring charges to customers if the servicer forecasts that charge collections will be greater than the amount required to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs

5. More frequent adjustments at any time without limits as to the frequency to ensure that the expected charge collections are adequate to ensure timely payment of interest and scheduled principal on the bonds and all other ongoing financing costs
6. After the last scheduled maturity date of the bonds (of any series), quarterly adjustments to ensure that charge collections will be sufficient to timely pay interest and principal on the next payment date, in addition to all other ongoing financing costs; the adjustments will be set at levels estimated to generate revenues sufficient to fully repay the bonds on the next payment date, plus all other ongoing financing costs

All adjustments will be designed to cause: 1) the outstanding principal balance of the bonds (or any series of bonds) to be equal to the scheduled balance (based on the expected amortization schedule); 2) the amount in the operating reserve and debt service reserve subaccounts to be equal to the required levels; and 3) with respect to the annual true-up only, any amount in the excess funds subaccount to be equal to zero by the payment date immediately preceding the effective date of the next annual adjustment.

Servicing

LIPA, acting as servicer under the servicing agreement, or any successor servicer as the financing order provides, will be responsible for servicing the restructuring property, including: 1) obtaining meter reads; 2) forecasting electricity usage; 3) calculating, billing and collecting the restructuring charges; 4) processing, accounting for and depositing charge collections and making periodic remittances; 5) calculating and implementing the true-up adjustments to the restructuring charges; 6) investigating and handling delinquencies and selling defaulted or written off accounts; 7) responding to inquiries from customers, the Authority, or any governmental authority regarding the restructuring property and the restructuring charges; and 8) furnishing periodic reports and statements.

Although LIPA is the named servicer for this securitization, PSEG-LI, a subsidiary of Public Service Enterprise Group Incorporated (PSEG, Baa2 positive), will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting the restructuring charges, meter reading and forecasting electricity usage, among others. PSEG is a publicly traded energy and energy services company. As of December 31, 2015, it had total assets of approximately $37.5 billion, last twelve months revenues of approximately $10.4 billion; and employed approximately 13,000 people. PSEG is the parent holding company of PSEG Power LLC, New Jersey's largest wholesale merchant generator with approximately 13.1 GW of capacity; Public Service Electric and Gas Company, New Jersey's largest regulated electric and gas T&D utility; and PSEG Energy Holdings L.L.C., which owns a portfolio of leveraged leases and is also pursuing investments in renewable generation.

There is no named backup servicer at closing though the financing order allows for a replacement servicer if the current servicer defaults in its performance obligations. In addition, the financing order allows the servicing fee to step-up from 0.05% to 0.60% of the initial principal balance of the bonds if LIPA is replaced as servicer by a successor servicer not affiliated with the owner of the T&D system assets.

Billing

PSEG-LI will perform LIPA's duties of billing and collecting the restructuring charges, meter reading and forecasting electricity usage. LIPA will be responsible for the true-up adjustments and certain reporting requirements.

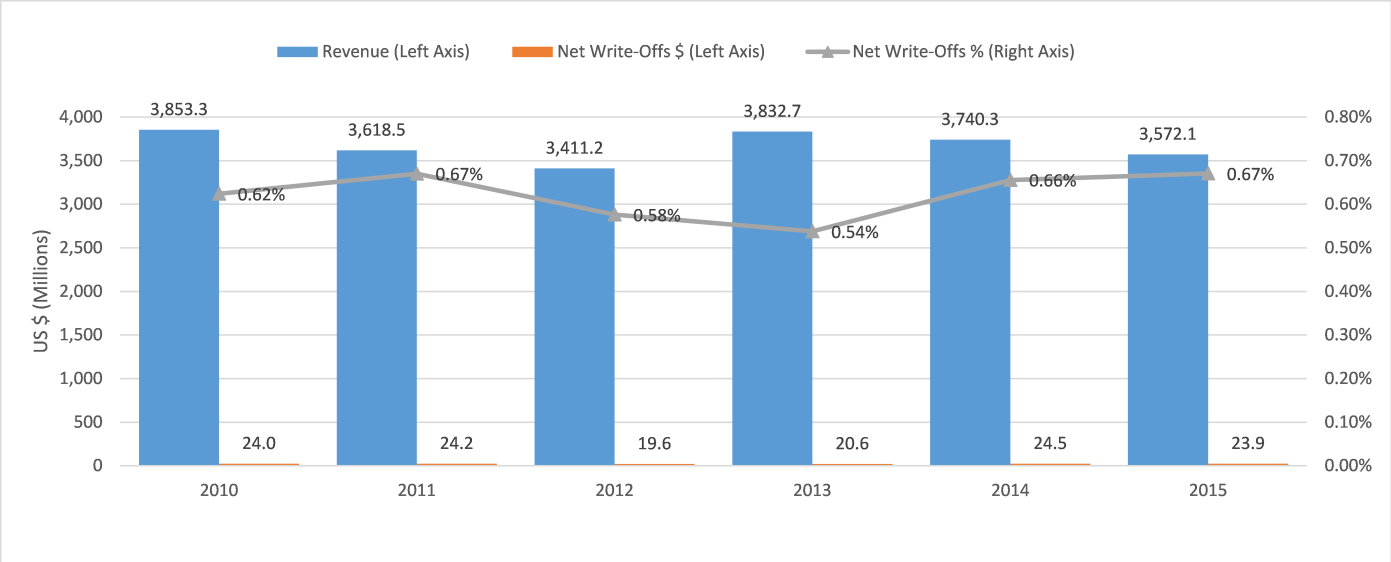
Under the securitization law and the financing order, if and to the extent that third parties are allowed to bill and/or collect any restructuring charges in the future while the bonds are outstanding, LIPA, any successor servicer, and any owner of the T&D system assets will take steps to ensure nonbypassability and minimize the likelihood of default by third-party billers. Further, LIPA and any successor servicer will not permit implementation of any third-party billing or collection that would result in a reduction or withdrawal of the current ratings on the bonds.

The provision of electric service to customers by LIPA is governed by the Home Energy Fair Practices Act (HEFPA). LIPA's credit and collections practices, including the ability to terminate (disconnect) service, are governed by HEFPA.

Exhibit 5 below shows net write-offs since 2010, which have ranged from a low of 54bps of billed revenue in 2013 to a peak of 67bps in 2011 and 2015.

Exhibit 5

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Exhibit 6 below shows LIPA customer delinquency data since 2010.

Exhibit 6

Average Monthly Delinquencies as a Percentage of Total Billed Revenues

	2010	2011	2012	2013	2014	2015
30-59 days	1.40%	1.46%	1.48%	1.54%	1.34%	1.20%
60-89 days	0.73%	0.80%	0.82%	0.84%	0.67%	0.59%
90+ days	2.43%	2.82%	3.42%	3.54%	2.31%	2.46%
Total	4.56%	5.08%	5.72%	5.93%	4.31%	4.25%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

Assets Analysis

Legal Analysis

Under the laws of New York and the United States, New York could not constitutionally take any legislative action, including the repeal or amendment of the securitization law, which would substantially limit, alter or impair the restructuring property or other rights vested in the bondholders pursuant to the financing order or substantially limit, alter, impair or reduce the value or amount of the restructuring property, unless (1) such action is a reasonable exercise of the State of New York's sovereign powers that appropriately furthers a legitimate public purpose; and (2) if such action constituted a permanent appropriation of the bondholders' substantial property interest in the restructuring property and deprived them of their reasonable expectations arising from their investments in the bonds, under the takings clauses of the federal and New York Constitutions, New York could not take such action without paying just compensation to the bondholders as determined by a court of competent jurisdiction.

New York does not have a referendum or initiative process by which the securitization law may be challenged. Therefore, the only way for the securitization law to be changed would be through a legislative action which would be subject to the state pledge.

Bondholders (or the trustee acting on their behalf) could challenge under the Contract Clause of the United States Constitution the constitutionality of any repeal or amendment of the securitization law or any other action or failure to take any action required by the state pledge that limits, alters or reduces the value of the restructuring property or the restructuring charges before the bonds are repaid in full, unless such action is necessary to further a significant and legitimate public purpose.

Under existing case law, assuming the takings clause applies under the federal and New York Constitutions, respectively, the State of New York would likely be required to pay just compensation to the bondholders if the State undertook a repeal or amendment of the securitization law or took any other action or failed to take any action required by the state pledge before the bonds are repaid in full that: 1) permanently appropriates the related restructuring property or denies all economically productive use of the related restructuring property; 2) destroys the restructuring property, other than in response to emergency conditions; or 3) substantially reduces, alters or impairs the value of the restructuring property so as to unduly interfere with the bondholders' reasonable expectations arising from their investments in the bonds.

The financing order provides that the restructuring property may be pledged to secure the payment of the bonds, financing costs, and other amounts owed. The securitization law provides that a valid and enforceable security interest in the restructuring propery will attach and be perfected at the time the pledge is made. The lien and security interest attach without any physical delivery of collateral or other act. The securitization law provides that the pledge is continuously perfected and has priority over any other lien created by the operation of law or otherwise that may be created subsequently.

Strong Service Area

Long Island's economy benefits from a highly skilled labor force, close proximity to New York City, more than 20 colleges and universities and core research institutions.

Long Island's median household income is substantially above that of New York State and the US. According to estimates from the US Census Bureau, the 2014 median household income for Nassau County and Suffolk County was $99,035 and $86,266, respectively, considerably higher than the $58,878 for New York State and the $54,562 for the US. According to the Authority, while the cost of electricity in the service area is higher than the national average, the cost of electricity as a percentage of income is below the national average.

Exhibit 7 below shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 7
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	51.5%	52.8%	52.2%	52.4%	53.2%	53.2%	54.1%	53.8%	54.2%	54.4%	53.4%	54.4%
Commercial	46.6%	45.1%	45.7%	45.4%	44.5%	44.5%	43.8%	43.9%	43.7%	44.6%	44.0%	43.5%
Street Lighting	0.7%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.7%	0.7%	1.1%	0.7%
Other Public Authorities	1.1%	1.4%	1.3%	1.4%	1.5%	1.5%	1.3%	1.5%	1.4%	0.3%	1.5%	1.5%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016, and Moody's Investors Service

For the twelve months ending on June 30, 2016, the ten largest retail electric customers represented approximately 5.7% of the Authority's retail kilowatt-hour sales resulting in 4.8% of revenues. As of the closing date, no customer or group of related commercial is exempt from paying the restructuring charges. Exhibit 8 below shows the energy usage and revenue from the top 10 commercial customers.

Exhibit 8
Top 10 LIPA Commercial Customers

	Industry	Energy Usage (GWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	State Public Transportation	303.8	1.52%	$45,428,220	1.32%
2	Telecommunications	145.7	0.73%	$22,870,878	0.67%
3	Nas/Suf County Govt Twnsps	132.6	0.67%	$20,800,037	0.61%
4	Water Districts	122.7	0.62%	$20,598,940	0.60%
5	Health Services-Hospitals	120.0	0.60%	$17,580,632	0.51%
6	Retail Food	102.6	0.51%	$16,725,102	0.49%
7	Real Estate/Developers	66.9	0.34%	$5,284,931	0.15%
8	Nassau Universities	51.0	0.26%	$7,354,337	0.21%
9	Manufacturing	43.7	0.22%	$4,489,759	0.13%
10	Retail Non-Food	36.4	0.18%	$3,726,650	0.11%
	Total	**1,125**	**5.65%**	**164,859,486**	**4.81%**

Source: Utility Debt Securitization Authority

Remote Risk of Severe Ratepayer Base Declines

The Series 2016B bonds are exposed to the risk of declines in the ratepayer base in the service area. However, declines in the ratepayer base dramatic enough to impact the rating of the bonds are unlikely given the size, projected population growth and economic stability of the service area's stable ratepayer base. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of restructuring charges on other non-self-generating ratepayers. Customers that self-generate will only be responsible for paying restructuring charges based upon their net-billed consumption. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The restructuring charge will be recoverable from all customers taking T&D service. As of July 29, 2013, the securitization law defines the service area to include two counties in Long Island, NY – Nassau County and Suffolk County (except for the Nassau County villages of Freeport and Rockville Centre and the Suffolk County village of Greenport, each of which has its own municipal electric system) – and a small portion in Queens, NY known as the Rockaways. Thus, the service area is fixed by the legislation. If the service area expands in the future, the new customers would be subject to the restructuring charge on a going-forward basis.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges. Moreover, municipalization would not affect restructuring charge collections since a successor and its customers will be subject to the restructuring charges, even if the T&D system assets are no longer owned by the Authority. Since 1998, no municipalizations have occurred in the service area.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact the Authority's operations, temporarily interrupting transmission, distribution and consumption of electricity, hence reducing the collections of restructuring charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the Authority's service area, which could cause the per-kWh restructuring charge to be greater than expected.

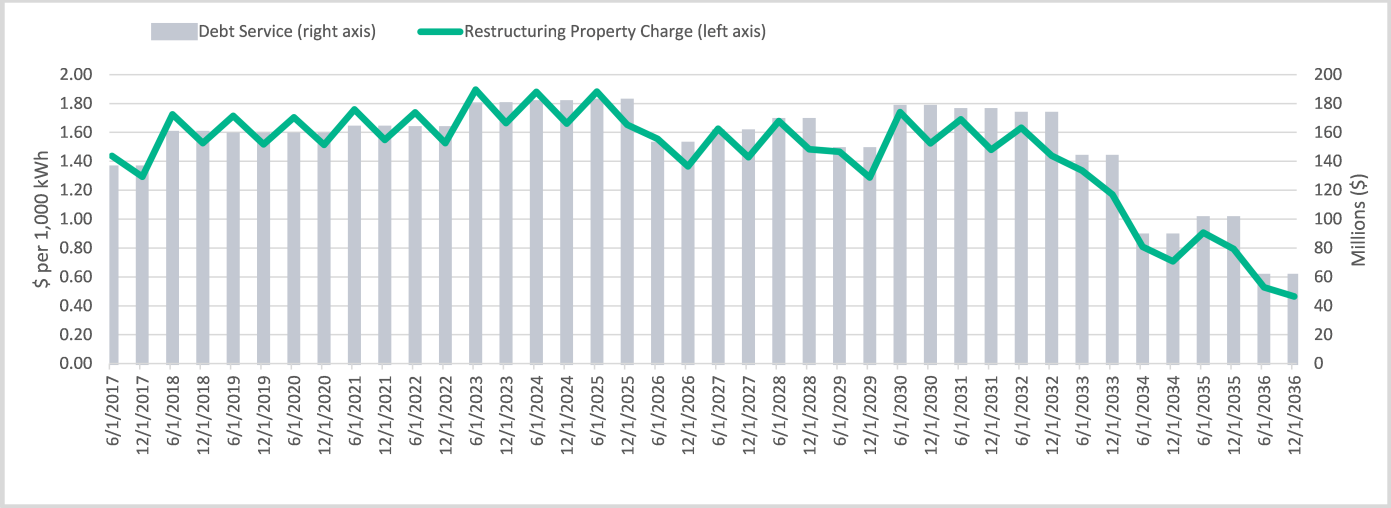
Forecasting Electricity Consumption

The Authority's internal company forecasts are used for projections of electricity price and weather conditions. The forecast incorporates customer usage, delinquencies and write-offs, among other inputs.

The Authority assesses the restructuring charges based on its forecasts of customer usage. The amount and the rate of restructuring charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs.

Exhibit 9 below shows the forecasted restructuring charge per 1,000 kWh and scheduled debt service payments.

Exhibit 9
Restructuring Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: Utility Debt Securitization Authority; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Additionally, there may be insufficient funds if the servicer inaccurately forecasts electricity consumption or uses inaccurate customer delinquency or charge-off data when setting or adjusting the 2016B restructuring charges. We view this risk as remote, as the maximum forecast variance since 2011 has been less than 6% per customer category, as shown in Exhibit 10.

Exhibit 10
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	4.31%	-2.37%	-2.69%	-4.28%	0.51%
Commercial	-1.00%	-3.59%	-2.39%	-1.70%	-2.07%
Street Lighting	0.17%	-2.19%	-4.44%	1.71%	-3.81%
Other Government	5.49%	-13.64%	-4.20%	3.13%	2.49%

Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

Cash Flow Analysis

We examined the cash flows that the restructuring charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the restructuring charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the restructuring charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm that the level of the restructuring charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the restructuring charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the restructuring charge, both in absolute terms and as a percentage of the customer's energy bill. In our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the restructuring charge is as high as 22.74%, higher than most other utility cost recovery charge securitizations. This concern is mitigated by the Authority's securitization offset rider, which reduces the delivery charge in an amount equal to any increase in the restructuring charge to keep customers' total monthly bills stable.

The Authority expects the combined initial restructuring charge for the 2013, 2015, 2016A and 2016B transactions to be around 7.8% of the total monthly bill that an average 1,000 kWh residential customer in the service area would receive as of June 15, 2017, which is higher than most other utility cost recovery charge securitizations we rate. The 7.8% is preliminary and subject to change based on market conditions.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the Authority's projections
2. Implied net charge-offs of 0.62%
3. Collection curve projects 20.0% of collections within 30 days and 80.0% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains LIPA or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case

4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year

5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case

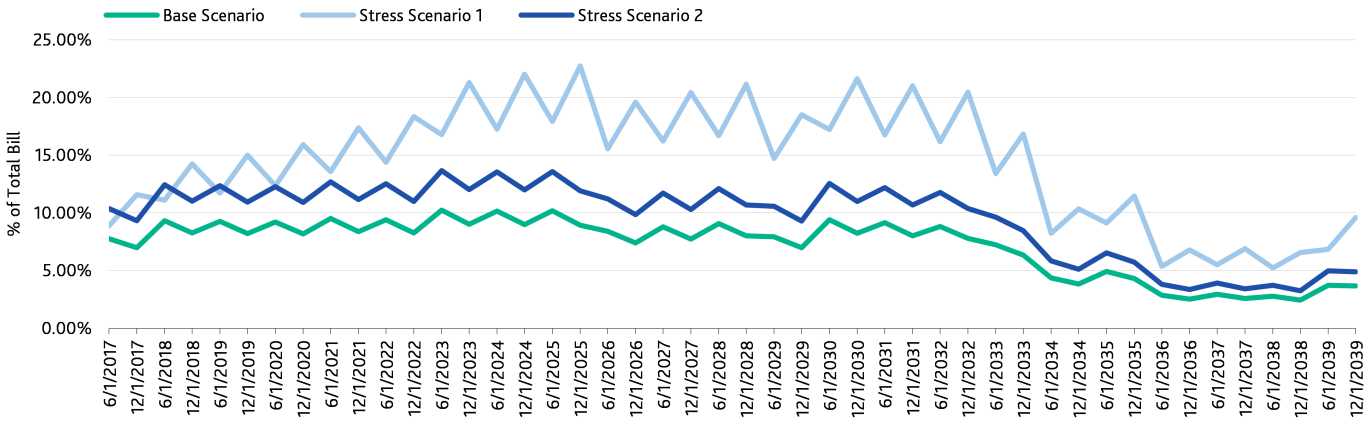
3. Collection curve is the same as in base case

4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 11 shows the projected restructuring charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 12 shows the projected restructuring charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 11

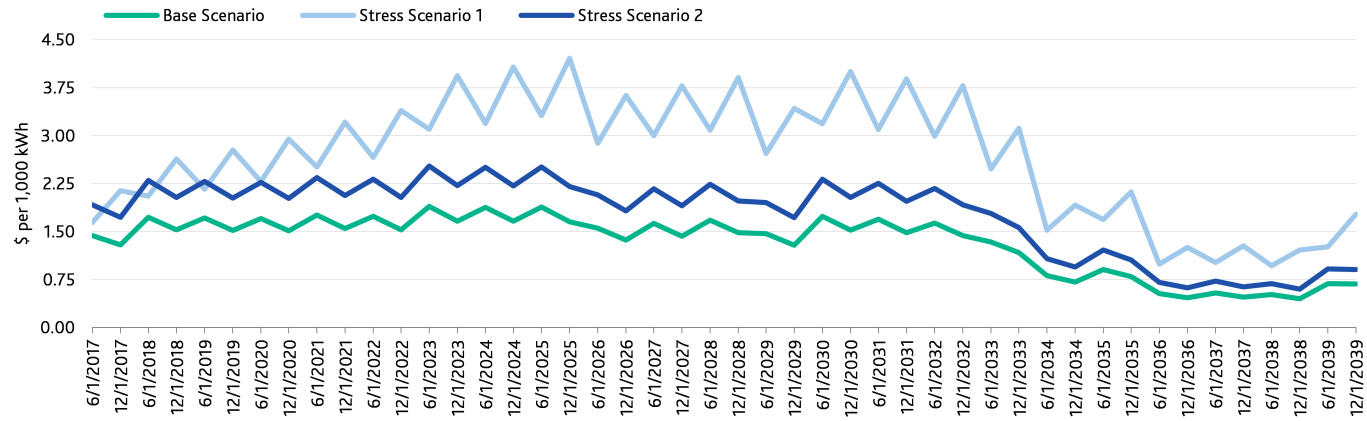
Projected Restructuring Charge as a Percentage of a Customer's Total Bill



Source: Utility Debt Securitization Authority; Moody's calculations

Exhibit 12

Projected Restructuring Charge ($ per 1,000 kWh)



Source: Utility Debt Securitization Authority; Moody's calculations

Comparables

As shown in Exhibit 13, stress scenario 1 is more stressful and results in a peak restructuring charge equal to about 22.74% of a 1,000 kWh per month customer's bill. This is high compared to other utility cost recovery deals.

Exhibit 13

Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
UDSA 2016B	10.25%	22.74%	13.66%
UDSA 2016A	7.21%	16.04%	10.40%
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

On the closing date, the Authority will sell the restructuring property to the issuer pursuant to a sale agreement between the issuer and the Authority. LIPA will be the servicer of the restructuring property. PSEG-LI will perform LIPA's key servicing duties pursuant to an operations services agreement, including billing and collecting restructuring charges, meter reading and forecasting electricity usage, among others.

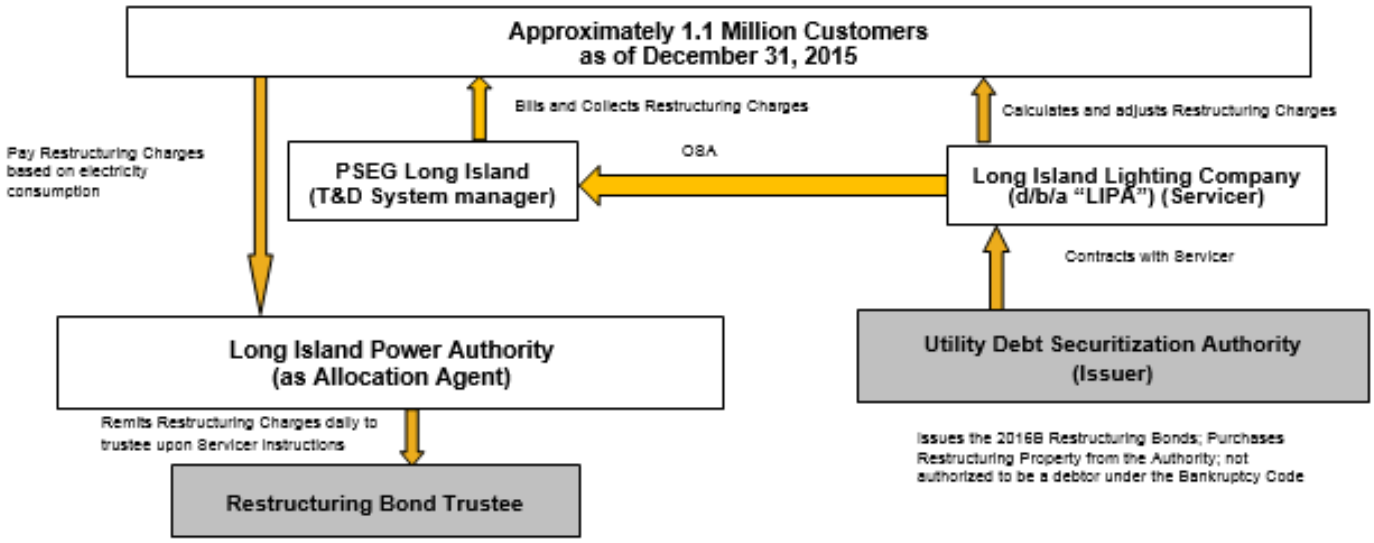
Securitization Structure Description

Structural Diagram

Exhibit 14 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 14

Structural Diagram



Source: Utility Debt Securitization Authority, Restructuring Bonds, Series 2016B Preliminary Official Statement dated July 28, 2016

1. The issuer purchases the restructuring property from the Authority and issues the Series 2016B bonds
2. The issuer contracts with LIPA as servicer to calculate and adjust the restructuring charges
3. LIPA contracts with PSEG-LI to bill and collect the restructuring charges

4. Electric utility customers pay restructuring charge on electricity bills based on electricity consumption
5. The Authority, as allocation agent, remits the restructuring charges to the trustee on a daily basis

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the debt service reserve account. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Operating Reserve Account

On or before the date of issuance of the bonds, the Authority will deliver to the trustee for deposit into the operating reserve account an amount not less than 0.50% of the initial aggregate principal amount of the Series 2016B bonds. Amounts may be withdrawn from the account to pay scheduled principal on the Series 2016B bonds, provided however that an amount not less than 0.50% remains on deposit in the account.

Debt Service Reserve Account

On or before the date of issuance of the bonds, the issuer will make a capital contribution to the trustee in an amount not less than 1.5% of the aggregate outstanding principal amount of the bonds, which will be deposited in the debt service reserve account. Under the financing order, any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the subaccount and applied to subsequent payments.

Cash Commingling

The servicer is entitled to commingle the restructuring charges that it receives with its own funds until it remits the funds to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from restructuring charges with other funds.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the allocation account within two business days. Any discrepancy between estimated and actual collections is mitigated by the true-up mechanism, which allows the Authority to adjust the restructuring charges at any time as needed to make timely interest and principal payments on the bonds.

Payment Priority

On each semiannual payment date, or for items 1 through 4 below, on any business day, the trustee will pay or allocate, at the direction of the servicer, all amounts on deposit in the collection account in the following order of priority:

1. to the trustee, i) all fees, expenses and ii) any outstanding indemnity amounts not to exceed $800,000 in each year;
2. to the servicer, the servicing fee and all prior unpaid servicing fees, capped at 0.60% of the aggregate principal balance of the bonds in each year;
3. to the administrator, the administration fee ($100,000 per year) and all prior unpaid administration fees;
4. the payment of all other operating expenses to the persons entitled to such payment;
5. to the bondholders, first, any overdue interest (together with, to the extent lawful, interest on such overdue interest at the applicable bond interest rate) and second, interest due on such payment date;
6. to the bondholders, principal due and payable on the bonds as a result of an event of default and an acceleration of the bonds or on the legal final maturity date of a tranche of bonds;

7. to the bondholders, principal for such payment date, sequentially according to the related expected amortization schedule;
8. to the trustee, indemnity amounts in excess of $800,000 in each year;
9. to the servicer, the servicing fee and all prior unpaid servicing fees in excess of 0.60% of the aggregate initial principal balance of the bonds in each year;
10. to the debt service reserve subaccount, the amount, if any, by which the required reserve level (1.5% of the aggregate outstanding principal balance of the bonds) exceeds the amount in the debt service reserve subaccount as of such payment date;
11. to the operating reserve subaccount, the amount, if any, by which the required operating reserve level (0.5% of the aggregate initial principal balance of the bonds) exceeds the amount in the operating reserve subaccount as of such payment date;
12. any funds in the debt service reserve subaccount in excess of the required debt service reserve level shall be retained in the debt service reserve subaccount and applied to clauses 5 through 7 above on the next payment date; and
13. to the excess funds subaccount, the balance, if any, for distribution on subsequent payment dates

If funds in the general subaccount are insufficient to make the payments required under items 1 through 9, the trustee will first, draw from amounts in the excess funds subaccount and second, draw from amounts in the operating reserve subaccount, in each case, to make the payments required under items 1 through 9. In addition, if funds in the general subaccount, together with moneys available in the excess funds subaccount and the operating reserve subaccount, are insufficient to make the payments required under items 5 through 7, the trustee will draw from amounts in the debt service reserve subaccount, up to the amount of such shortfall. If funds in the general subaccount are insufficient to make the allocations under item 10, the trustee will draw from amounts in the excess funds subaccount to make such allocations.

LIPA will calculate the annual true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next annual true-up adjustment. Should LIPA perform a mid-year true-up adjustment, LIPA will similarly calculate the mid-year true-up adjustment to eliminate any amounts in the excess funds subaccount by the payment date immediately preceding the effective date of the next mid-year true-up adjustment.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. failure to pay interest or redemption price on any bond when due (after a five day cure period);
2. failure to pay principal of any tranche of a bond on the legal final maturity date for such tranche;
3. failure of the issuer to perform a covenant (after a cure period);
4. breach by the issuer of its representations or warranties (after a cure period);
5. commencement of an involuntary bankruptcy or similar proceeding against the issuer which remains in effect for 90 days;
6. commencement of a voluntary bankruptcy or similar proceeding by the issuer; or
7. an action violating the financing order or state pledge.

Issuance of Additional Bonds

The issuer can issue up to $4.5 billion in restructuring bonds over four distinct financing orders. To the extent the amount authorized is not issued under this fourth and final financing order, additional financings may be authorized by new financing orders to be adopted at a later date. Each series of restructuring bonds that may be issued will be backed by separate restructuring property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of restructuring bonds. However, the issuer may not issue additional restructuring bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of restructuring property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the restructuring property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The securitization law created the issuer, a bankruptcy-remote special purpose corporate municipal instrumentality, and a political subdivision and public benefit corporation of the State of New York. Under the securitization law, the issuer is not authorized to be a debtor under Chapter 9 or any other provision of the Bankruptcy Code.

The issuer was formed solely to purchase and own the restructuring property, to issue the bonds which are to be secured by the restructuring property, and to perform any activity incidental thereto. The issuer has no commercial operations.

The issuer will issue the bonds under an indenture with the trustee and will use the bond proceeds to purchase the restructuring property from the Authority and to pay the cost of issuing the bonds. The issuer will pledge the restructuring property to secure the bonds.

Sponsor and Seller

The Long Island Power Authority will be the securitization's sponsor and the seller of the restructuring property. The Authority is a corporate municipal instrumentality and a political subdivision of the State of New York, and is authorized to be a Chapter 9 debtor pursuant to its enabling legislation.

The Authority took over as the retail supplier of electric service in the service area in 1998 by acquiring the Long Island Lighting Company (LILCO) as a wholly-owned subsidiary of the Authority through a merger. Since the merger, LILCO has done business under the name "LIPA." LIPA, acting through LILCO provides electric delivery service in the service area.

The Authority is governed by a Board of Trustees and is generally not regulated by the New York Public Service Commission (PSC) or the Federal Energy Regulatory Commission. The Authority is authorized under its enabling statute to set rates for electric service in the service area without obtaining the approval of the PSC or any other State regulatory body.

The Authority and LIPA are parties to a financing agreement providing for their respective duties and obligations relating to the financing and operation of the retail electric business. Under the agreement, LIPA conducts the electric business in the service area and is responsible for providing service to customers in the service area. The Authority and LIPA are also parties to an administrative services agreement pursuant to which the Authority provides personnel, personnel-related services and other services necessary for LIPA to provide electric service in the service area.

Administrator

LIPA will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. LIPA, as administrator, will be entitled to receive an annual administration fee of $100,000 payable annually, in arrears.

Securitization Structure Analysis

The key structural feature of this transaction is the true-up mechanism. Our rating is highly dependent on the extent to which the mechanism adjusts the charges to correct for past shortfalls or forecasted future shortfalls. The effectiveness of those rate changes in raising funds depends, in turn, on how easily customers can escape the charges and how sensitive electricity usage is to increases in the utility charges. Therefore, our analysis of the true-up mechanism goes together with our analysis of how bypassable the cost recovery charges are and how easily customers can cut back on electricity usage.

In this transaction, the strong true-up mechanism combined with nonbypassable charges mitigates the need for credit enhancement in the form of alternative sources of funds. The operating reserve and debt service accounts provide sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of LIPA (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating.

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REPORT NUMBER 1033393

MOODY'S
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CREDIT OPINION
16 June 2016

Pre-Sale

TABLE OF CONTENTS

Capital Structure	1
Summary Rating Rationale	1
Credit Strengths	2
Credit Challenges	3
Key Characteristics	4
Securitization Structure Characteristics	4
Assets Overview	5
Assets Description	5
Assets Analysis	10
Securitization Structure Overview	15
Securitization Structure Description	15
Detailed Description of the Structure	16
Securitization Structure Analysis	18
Methodology and Monitoring	19

Estimated Closing Date

June 2016

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Duke Energy Florida Project Finance, LLC Series A Bonds

First Duke Energy Florida-Sponsored Utility Cost Recovery Bond

Capital Structure

Exhibit 1
Provisional (P) Ratings

Series	Provisional Rating	Expected Amount	Coupon	Legal Final Maturity Date
Series A 2018	(P)Aaa (sf)	$183,000,000	Fixed	3/1/2022
Series A 2021	(P)Aaa (sf)	$150,000,000	Fixed	9/1/2024
Series A 2026	(P)Aaa (sf)	$436,000,000	Fixed	9/1/2031
Series A 2032	(P)Aaa (sf)	$250,000,000	Fixed	3/1/2035
Series A 2035	(P)Aaa (sf)	$275,290,000	Fixed	9/1/2038
Total		$1,294,290,000		

The ratings address the expected loss posed to investors by the legal final maturity. In Moody's opinion the structure allows for timely payment of interest and ultimate payment of principal at par on or before the rated final legal maturity date. Moody's ratings address only the credit risks associated with the transaction. Other non-credit risks are not addressed, but may have a significant effect on yield to investors.
Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Summary Rating Rationale

We have assigned provisional ratings to the five classes of bonds (Series A bonds, or the bonds) that Duke Energy Florida Project Finance, LLC (the issuer) will issue. The issuer is wholly-owned by Duke Energy Florida, LLC (DEF; A3 Stable), a subsidiary of Duke Energy Corporation (Baa1 negative), one of the largest utility holding companies in the US. DEF formed the issuer to securitize a special charge on DEF customers' utility bills. The charge is imposed to recover certain costs associated with DEF's retirement of its Crystal River Unit 3 (CR3) nuclear power plant, including certain capitalized costs of the retired nuclear generating asset and ancillary costs and fees, as well as financing costs associated with this issuance. The Series A bonds will be the first utility cost recovery bonds sponsored by DEF.

This pre-sale report addresses the structure and characteristics of the proposed transaction based on the information provided to Moody's as of 15 June 2016. Investors should be aware that certain issues concerning this transaction have yet to be finalized. Upon conclusive review of all documents and legal information as well as any subsequent changes in information, Moody's will endeavor to assign definitive ratings to this transaction. The definitive ratings may differ from the provisional ratings set forth in this report. Moody's will disseminate the assignment of definitive ratings through its Client Service Desk. This report does not constitute an offer to sell or a solicitation of an offer to buy any securities, and it may not be used or circulated in connection with any such offer or solicitation.

As a regulated utility, DEF is typically entitled to recover specified costs of acquiring, constructing and improving energy generating assets which are generally capitalized and recovered over the useful life of that asset. The Florida Public Service Commission (FPSC) has authorized DEF to recover a specified portion of DEF's remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the CR3 nuclear plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges (nuclear asset-recovery property) is the primary collateral backing the Series A bonds.

Our provisional ratings reflect our assessment of the legal and structural aspects of the transaction including the State of Florida's legislation, financing order and state pledge, the mandatory uncapped true-up mechanism, the relatively low level of the recovery charge as compared to prior rated utility cost recovery transactions, the large and diversified ratepayer base, and the credit quality of the servicer.

Credit Strengths

Strength of Legislation and Financing Order: The State of Florida's legislation (Section 366.95, Florida Statutes, or the securitization law), coupled with an irrevocable financing order that became final and non-appealable on December 19, 2015 permits the securitization and strongly protects the nuclear asset-recovery property securing the bonds. Similar to other utility cost recovery securitizations, this transaction benefits from the securitization law's inclusion of a state non-impairment pledge under which the State of Florida pledges to bondholders that it will not (1) alter provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of the nuclear asset-recovery property, or (3) except as authorized by the true-up adjustment mechanism, reduce, alter or impair nuclear asset-recovery charges until the bonds have been repaid in full (the state pledge). In addition, the securitization law and financing order contain the typical strong true-sale and security interest provisions.

FPSC's irrevocable financing order authorizes DEF to recover specified costs of retiring the CR3 nuclear plant by collecting nuclear asset-recovery charges. This nuclear asset-recovery property grants the issuer the right to impose, bill and collect, nonbypassable nuclear asset-recovery charges based on electricity usage, and related rights, including a mandatory uncapped true-up mechanism that periodically adjusts the charges to ensure timely bond payments until the bonds are repaid in full. In this context, nonbypassable refers to the requirement that the charges be levied on all of DEF's existing and future retail electric customers receiving transmission and distribution services in DEF's service area, including customers of any DEF successor or assignee, and even if a customer elects to purchase electricity from an alternative electric supplier following a deregulation of public utilities in Florida.

True-Up Adjustment Mechanism: The true-up adjustment mechanism is the key form of credit enhancement supporting the bonds. The financing order authorizes an uncapped true-up adjustment mechanism that mandatorily adjusts nuclear-asset recovery charges semiannually (and quarterly after the last scheduled maturity date of the bonds of any series) to ensure timely bond payments. In addition, the financing order authorizes more frequent interim adjustments, at any time if the servicer deems necessary to ensure timely bond payments.

Relatively Low Recovery Charge: DEF expects the securitization's initial nuclear asset-recovery charge to represent around 2.5% of the total monthly bill that a 1,000 kilowatt hour (kWh) residential customer in DEF's service area will receive as of April 2016; this percentage charge is relatively low compared to charges in other utility cost recovery transactions. For context, the three most recent utility cost recovery bond issuances we rated, Utility Debt Securitization Authority, sponsored by LIPA, Entergy New Orleans Storm Recovery Funding I, LLC, and the Louisiana Utilities Restoration Corporation Project/ ELL, had a cumulative (including prior utility cost recovery charges to the same customer base) initial recovery charge amounting to 6.9%, 2.5%, and 3.7% of a 1,000 kWh residential bill, respectively.

Strength of the Ratepayer Base: The size, economic stability and diversity of the ratepayer base in DEF's service area is a credit strength. The service area includes the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas. The service area primarily

This publication does not announce a credit rating action. For any credit ratings referenced in this publication, please see the ratings tab on the issuer/entity page on www.moodys.com for the most updated credit rating action information and rating history.

includes a mix of residential customers (59% by revenue) and commercial customers (28% by revenue). Unlike most other utility cost recovery securitizations, the service area includes very few industrial customers (6% by revenue), which is a credit positive. Energy consumption by industrial customers is more volatile compared with other types of customers, because consumption by industrial operations is more closely tied to the business cycle.

Strength and Experience of the Servicer: We rate DEF A3 with a stable outlook. DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

Credit Challenges

Challenges to Securitization Law and Financing Order: Potential state and federal legislative and regulatory actions could weaken the legal protections of the nuclear asset-recovery property; however we view this risk as remote. Florida does not have a referendum or initiative process by which voters could challenge the securitization law. Therefore, the only way to repeal or amend the securitization law, or for FPSC to amend or revoke the financing order, would be through an amendment to the state constitution or a legislative action, either of which would violate the state pledge. The risk that the State of Florida would take legislative action that compromises its state pledge to the significant detriment of bondholders is remote because state impairment would give rise to claims under state and federal laws prohibiting government impairment of contracts and taking of private property without reasonable reimbursement under state and federal "taking" claims. The irrevocable and unconditional nature of the financing order mitigates any concern that it could be altered.

The people of the State of Florida have the right to amend the Florida Constitution through initiative powers. It is possible that the people of Florida, using their initiative powers, might amend or repeal the Florida Constitution in a manner affecting the securitization law. The process to propose a revision or amendment to the Florida Constitution by initiative is extremely burdensome. DEF is currently unaware of any efforts to amend the Florida Constitution in a manner which would affect the securitization law in any way.

On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (Section 366.93, Florida Statutes) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

We view the risk to bondholders from this litigation as remote. Several past challenges to securitization laws such as this have been unsuccessful, and even in the low likelihood event that this challenge is successful, the arguments put forward by the plaintiffs are generally not relevant to the securitization law.

Potential for Insufficient Collections: Collections arising from the nuclear asset-recovery property could fall short of required distributions on the bonds resulting from inaccurate forecasting of electrical consumption by the servicer, unanticipated delinquencies and defaults, population migration, self-generation and storm damage. DEF's estimates of market demand, energy prices and growth within its service area could also be inaccurate. These concerns are mitigated by the mandatory uncapped true-up adjustment mechanism, in which the servicer is required to adjust the charges periodically throughout the year to ensure timely payment of the bonds. These true-up adjustments occur semiannually and on an interim basis as needed.

Key Characteristics

Asset Characteristics (as of 15 June 2016)

Exhibit 2

Asset Characteristics

Assets:	Nuclear asset-recovery property, which consists of all rights and interest of the issuer under the financing order, including the right to impose, bill, collect and receive irrevocable, binding, nonbypassable charges based on the usage of electricity from all existing or future customers receiving transmission or distribution service from DEF or its successors or assignees
Service Area:	DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Securitization Structure Characteristics

Exhibit 3

Securitization Structure Characteristics

Securities Offered:	Series A Senior Secured Bonds
Amount:	$1,294,290,000
Structure:	Standalone trust
Credit Enhancement:	Mandatory uncapped true-up mechanism, Capital Subaccount
Transaction Parties	
Sponsor/Depositor/Servicer:	Duke Energy Florida, LLC
Issuer:	Duke Energy Florida Project Finance, LLC
FPSC Financial Advisor:	Saber Partners, LLC
Trustee:	The Bank of New York Mellon Trust Company, National Association

Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Assets Overview

In February 2013, DEF announced it would close and decommission the CR3 nuclear power plant. The FPSC has authorized DEF to recover a portion of its remaining unrecovered capitalized and newly incurred costs associated with the early retirement of the plant (nuclear asset-recovery costs). The nuclear asset-recovery costs, together with interest and other financing costs, are recovered by irrevocable, binding, nonbypassable charges (nuclear asset-recovery charges) imposed on all DEF transmission and distribution customers for the total value of the nuclear asset-recovery costs. The right to impose, bill, collect and receive the nuclear asset-recovery charges is the primary collateral (nuclear asset-recovery property) backing the Series A bonds.

The bonds are also secured by funds on deposit in the collection account, including the general subaccount, the capital subaccount and the excess funds subaccount, by the issuer's rights under the various transaction documents, by the issuer's right to compel the servicer to file for and obtain true-up adjustments, and by all payments on or under the pledged collateral and by all proceeds in respect to the pledged collateral.

Assets Description

The Securitization Law

In 2015, the Florida legislature enacted the securitization law, codified as Section 366.95, Florida Statutes. The securitization law allows electric utilities to access lower-cost funds through nuclear asset-recovery bonds pursuant to financing orders issued by the FPSC. One purpose of the securitization law is to lower the cost to customers associated with the long-term financing of costs incurred in connection with the early retirement or abandonment of a nuclear generating asset unit. The early retirement or abandonment must be deemed reasonable and prudent by the FPSC through a final order approving a settlement or other final order issued by the FPSC before July 1, 2017, and the pretax costs to be financed must exceed $750 million.

The securitization law permits DEF to impose irrevocable, binding, nonbypassable nuclear asset-recovery charges on all future and existing customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts sufficient to pay principal of and interest on the bonds and other administrative expenses of the offering. The FPSC governs the amount and terms for collections of these nuclear asset-recovery charges through one or more financing orders issued to DEF. Upon the issuance of the bonds these nuclear asset-recovery charges may not be reduced, impaired, postponed, terminated or otherwise adjusted by the FPSC except as adjusted pursuant to the true-up mechanism.

Florida and other states have passed legislation similar to the securitization law to authorize recoveries by utilities of specified costs, such as hurricane recovery costs, environmental control costs, or costs associated with deregulation of the electricity market, and some of those laws have been challenged by judicial actions or utility commission proceedings. To date, none of those challenges has succeeded.

The securitization law provides that a valid and enforceable security interest in nuclear asset-recovery property will attach only upon the later of: the issuance of a financing order, the execution and delivery of a security agreement with the indenture trustee in connection with issuance of a series of bonds, and the receipt of value for such bonds. Although not governed by the UCC, upon filing notice with the Florida UCC registry the lien and security interest will be continuously perfected. The security interest will have priority in the order of filing and take precedence over any subsequent judicial or other lien creditor. No continuation statements are necessary to maintain such perfection. The servicer pledges in the servicing agreement to file in the Florida UCC registry on or before the closing date and the seller will represent that no prior filing has been made.

The Financing Order

The FPSC issued an irrevocable financing order to DEF on November 19, 2015. That financing order became final and non-appealable on December 19, 2015. Pursuant to the financing order, DEF established the issuer to be a bankruptcy-remote special purpose subsidiary to issue the nuclear asset-recovery bonds. In the financing order, the FPSC authorized the imposition and collection of nuclear asset-recovery charges on all DEF transmission and distribution customers. DEF, as initial servicer, will collect nuclear asset-recovery charges on the issuer's behalf and will remit the nuclear asset-recovery charges to the indenture trustee.

The FPSC expects the financing order to result in a substantial cost savings to ratepayers of $708 million or $1.95 per month for 1,000 kWh, versus the traditional method of cost recovery under current and expected market conditions. The financing order has been praised publicly by regulators and consumer advocacy groups, further insulating the financing order from challenge.

The State Pledge

The securitization law includes a pledge from the State of Florida to the bondholders that it will not (1) alter the provisions of the securitization law which make the nuclear asset-recovery charges irrevocable, binding, and nonbypassable; (2) take or permit any action that impairs the value of nuclear asset-recovery property; or (3) except as authorized by the true-up adjustment mechanism, reduce, alter, or impair the nuclear asset-recovery charges until the bonds have been repaid in full.

Any action of the Florida legislature adversely affecting the nuclear asset-recovery charges or the ability to charge or collect the charges would likely require the State of Florida to pay just compensation under the "takings clause" of the US and Florida Constitutions. The seller agrees that it will institute any action or proceeding necessary to compel performance by the FPSC, the State of Florida or any of their respective agents of any of their obligations or duties under the securitization law or any financing order.

The Nuclear Asset-Recovery Charges

The nuclear asset-recovery charges are nonbypassable, consumption-based charges separate and apart from DEF's base rates; the nuclear asset-recovery charges are to be paid by all existing and future customers receiving transmission or distribution service from DEF or its successors or assignees under FPSC-approved rate schedules or under special contracts. Such customers must pay nuclear asset-recovery charges even if DEF goes out of business and its transmission and distribution services are taken over by another utility or if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in Florida. No customer receiving transmission or distribution service from DEF can avoid the charge. The only way to avoid the charge is to disconnect from DEF's electric grid.

The nuclear asset-recovery charges are permitted to continue for 276 months from issuance, or until the bonds are paid in full. The expected scheduled final payment date for the Series A 2033 bonds is 240 months from issuance, providing up to an additional 36 months of nuclear asset-recovery charges if necessary to pay the bonds.

The Nuclear Asset-Recovery Costs

The nuclear asset-recovery charges authorized by the financing order allow DEF to recover nuclear asset-recovery costs related to retiring the CR3 nuclear plant located in Citrus County, Florida. CR3 was originally placed in service in 1977. In February 2013, DEF announced the early retirement of the project. DEF's unrecovered net investment in the project was approximately $1.6 billion. In October 2013, the FPSC approved a settlement agreement whereby DEF agreed to write-off approximately $300 million of its unrecovered net investment in CR3. The settlement agreement allowed DEF to recover its remaining unrecovered net investment in the project of approximately $1.3 billion over a 240 month period beginning no later than the first billing period of January 2017.

The nuclear asset-recovery costs financed by the bonds are equal to (i) the balance of the CR3 regulatory asset as of December 31, 2015 as allowed under the financing order minus (ii) $35,894,547, which, pursuant to the FPSC's Final Order PSC-16-0138-FOF-EI issued on April 5, 2016, shall not be included as part of the CR3 regulatory asset, plus (iii) carrying charges accruing at 6.0% per annum on the balance of the CR3 regulatory asset (adjusted as described in (ii) above) from December 31, 2015 through June 21, 2016.

Excluded from the amount being financed is $35,894,547 of costs claimed pursuant to Section 366.93, Florida Statutes. On February 26, 2016, DEF was served with a class action lawsuit in which the plaintiffs allege that the nuclear cost recovery statute (366.93) is unconstitutional on various grounds. The putative plaintiffs seek a refund of costs paid by DEF customers pursuant to the nuclear cost recovery statute. The securitization law is not the subject of this litigation.

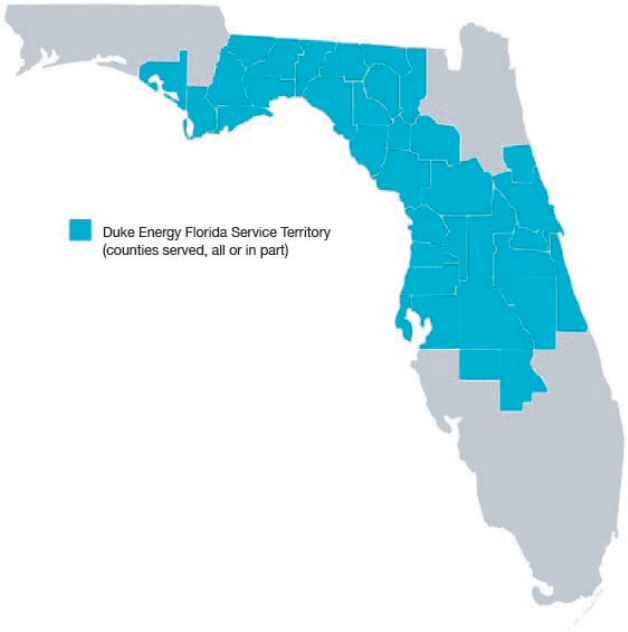
The suit claims DEF unlawfully charged customer higher rates to cover more than $1.2 billion in expenses at its Crystal River nuclear power plant and at its proposed (and now shelved) Levy County nuclear plant site. In addition to the suit seeking relief for nuclear recovery costs, it also seeks to nullify as unconstitutional the nuclear cost recovery system and all nuclear cost recovery orders issued by the FPSC, and it seeks an order enjoining defendants from further unlawful charges. The likelihood of the lawsuit prevailing is low considering other lawsuits challenging the constitutionality of Florida's nuclear cost recovery statute have been found to be without merit and rejected by Florida courts.

The Service Area

DEF's service area covers approximately 13,000 square miles, including the greater Gainesville, Orlando, St. Petersburg, and Tallahassee areas, and supplies electric service to approximately 1.7 million residential, commercial and industrial customers. During the twelve

months ended December 31, 2015, DEF billed approximately 38.6 billion kilowatt hours of electricity to its covered electric customers in Florida, resulting in revenues of approximately $4.4 billion. Exhibit 4 below shows a map of DEF's service area.

Exhibit 4
Duke Energy Florida Service Area



Source: Duke Energy Florida Project Finance, LLC Series A Preliminary Prospectus dated June 15, 2016

Statutory Uncapped True-Up Adjustment Mechanism

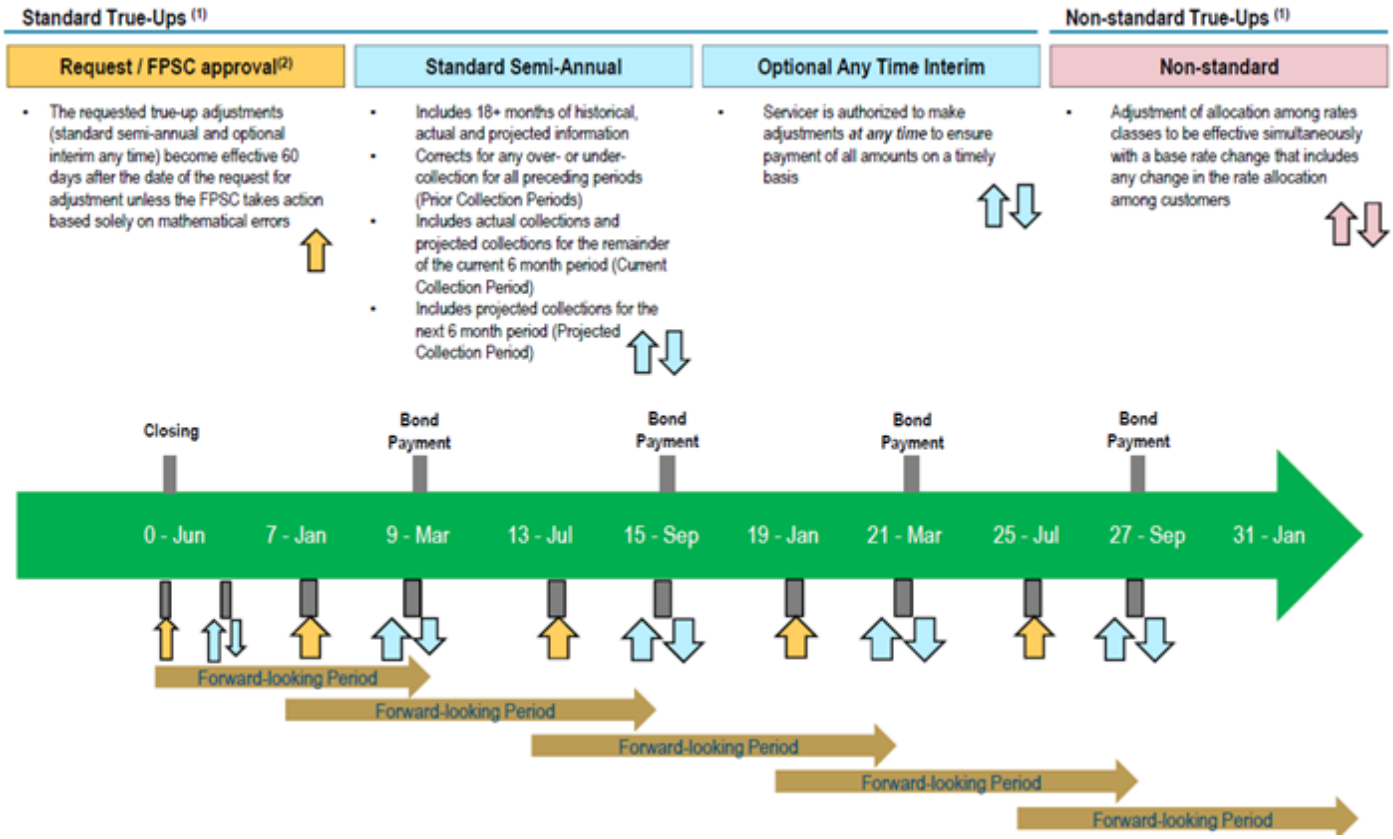
The securitization law and the financing order require that the issuer or DEF file with the FPSC at least semi-annually (and quarterly after the scheduled final payment date for the latest maturing bond) a letter applying the true-up mechanism to correct for any overcollection or undercollection of the nuclear asset-recovery charges and make any adjustments to ensure the recovery of revenues sufficient to provide for the timely payment of scheduled principal and interest on the bonds and other required amounts and charges. The FPSC's review of any adjustment request is limited solely to determining whether there is any mathematical error in the application of the formula-based mechanism.

Under the servicing agreement, the servicer will make adjustments to the nuclear asset-recovery charges at least semi-annually. In addition to the semi-annual true-up adjustment, the servicer is authorized to make interim adjustments at any time for any reason to ensure the timely payment on the bonds. In addition, the servicer will make a non-standard true-up adjustment to be effective simultaneously with a base rate change that includes any change in the rate allocation among customers used to determine the nuclear asset-recovery charges. Exhibit 5 below illustrates the true-up mechanism.

Under the irrevocable financing order, the FPSC guarantees it will act, as directed by the securitization law, to implement the true-up mechanism for making any adjustments that are necessary to correct for any overcollection or undercollection of the nuclear asset-recovery charges or to otherwise ensure the timely payment of principal of and interest on the bonds when due.

Exhibit 5

True-Up Mechanism



Source: DEF

Servicing

DEF will be the initial servicer of the bonds. DEF, as servicer, will be responsible for, among other things, calculating, billing, collecting and posting the nuclear asset-recovery charges from customers, submitting requests to the FPSC to adjust these charges, monitoring the collateral for the bonds and taking certain actions in the event of non-payment by a customer. The indenture trustee's receipt of collections in respect of the nuclear asset-recovery charges, which will be used to make payments on bonds, will depend in part on the skill and diligence of the servicer in performing these functions.

DEF does not have prior servicing experience with nuclear asset-recovery charges, but is highly experienced in calculating and implementing similar rates and charges under various cost recovery statutes and billing those amounts to customers. DEF has over one hundred years of experience in collecting similar charges from its customers.

DEF will be entitled to receive an annual servicing fee in an amount equal to 0.05% of the aggregate initial principal amount of the bonds. This servicing fee will be payable in equal installments on each semi-annual payment date, in arrears. If DEF or any of its affiliates is not the servicer, the successor servicing fee may be up to 0.60% of the initial principal amount of the bonds unless a higher fee is approved by the FPSC.

In the event of a servicer default, the indenture trustee, at the direction of a majority of bondholders or at the direction of the FPSC, may terminate the rights and obligations of the servicer under the servicing agreement. However, replacement of the servicer would require the agreement of the indenture trustee and the administrative agents under DEF's accounts receivable sale programs.

Credit, Billing and Budget Billing

DEF is required to provide transmission and distribution service to all qualified customers. First time customers establishing residential electric accounts are generally required to pay a deposit as are customers that do not satisfy threshold credit score requirements.

The amount of the deposit reflects the estimated use over a two-month period, which is the maximum DEF may collect by law. As a general rule, non-residential accounts require deposit coverage. Consumer credit is not used to determine credit worthiness on non-residential accounts.

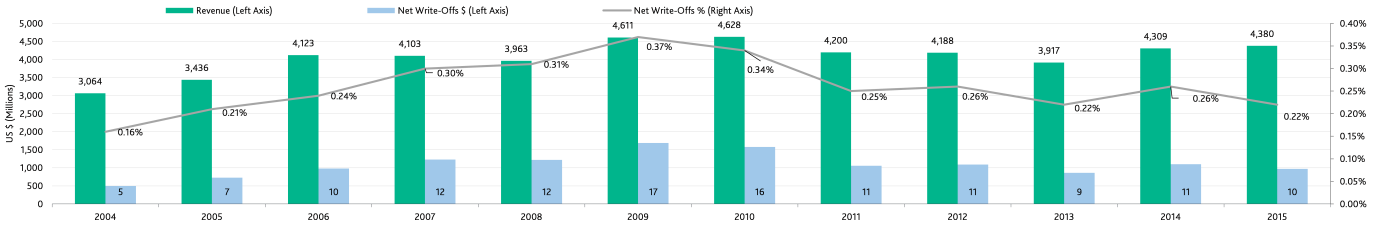
DEF bills its customers once every 24 to 39 days and distributes approximately 85,000 bills on each business day to its customers. Approximately 6% of DEF's residential customers choose to be billed using DEF's budget billing program. For these customers, DEF determines and bills a monthly budget based on the last twelve months of billing history for each account. Budget billing does not affect the amount of nuclear asset-recovery charges that the servicer remits to the indenture trustee on a daily basis.

Bills are due 21 calendar days after the issue date at which time they are considered delinquent. For the year ended December 31, 2015, approximately 6% of total billed retail revenue became eligible for disconnect and 1% was disconnected. Approximately 87% of accounts disconnected for nonpayment ultimately make full payment and have service restored. Unpaid final bills are written off approximately 30 days after the final bill is issued.

Exhibit 6 below shows net write-offs since 2004, which have ranged from a low of 16bps of billed revenue in 2004 to a crisis period peak of 37bps in 2009. DEF's forecast is 26 bps, consistent with the post-crisis performance history.

Exhibit 6

Net Write-Offs as a Percentage of Billed Retail Revenues



Source: DEF

While more than 7.5% of customers are typically 30-59 days past due, by the third month most delinquencies are cured, with those still outstanding past 90 days well under 1% throughout the observation period. Exhibit 7 shows DEF customer delinquency data since 2005.

Exhibit 7

Delinquencies as a Percentage of Total Billed Revenues

	As of 2005	As of 2006	As of 2007	As of 2008	As of 2009	As of 2010	As of 2011	As of 2012	As of 2013	As of 2014	As of 2015
30-59 days	8.27%	8.51%	9.66%	8.41%	9.38%	7.82%	7.79%	7.59%	7.48%	7.79%	7.73%
60-89 days	0.92%	0.87%	1.12%	1.07%	0.78%	0.59%	0.57%	0.54%	0.59%	0.64%	0.57%
90+ days	0.52%	0.56%	0.90%	0.66%	0.51%	0.33%	0.22%	0.21%	0.28%	0.33%	0.33%
Total	9.71%	9.94%	11.68%	10.14%	10.67%	8.75%	8.58%	8.34%	8.35%	8.76%	8.63%

Source: DEF

Assets Analysis

Strong Service Area

This transaction benefits from the size and diversity of the ratepayer base within DEF's service area and the projected population growth and economic stability of the ratepayer base. During 2015, approximately 9% of DEF's total retail billed electric consumption was by industrial customers, approximately 31% was by commercial customers and approximately 52% was by residential customers, with other entities comprising approximately 8%. Exhibit 8 shows the percentage of total billed revenue attributable to each customer class since 2004.

Exhibit 8
Sales by Revenue Class (% of Total Billed Revenue)

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Residential	57.91%	57.70%	56.85%	57.21%	56.94%	57.34%	59.72%	58.18%	56.96%	58.49%	58.85%	59.43%
Commercial	27.66%	27.57%	27.89%	28.06%	28.39%	28.46%	27.01%	28.10%	28.85%	28.11%	27.81%	27.51%
Industrial	7.65%	7.73%	7.98%	7.34%	7.31%	6.70%	6.14%	6.40%	6.53%	6.12%	6.10%	5.91%
Streetlighting	0.05%	0.05%	0.05%	0.05%	0.05%	0.05%	0.04%	0.04%	0.05%	0.04%	0.04%	0.04%
Public Authority	6.73%	6.95%	7.22%	7.34%	7.31%	7.44%	7.09%	7.28%	7.61%	7.24%	7.20%	7.11%

Source: DEF

For the year ended December 31, 2015, the ten largest retail electric customers represented approximately 8.3% of DEF's retail kilowatt-hour sales. There are no material concentrations in the residential class. As of the closing date, no customer or group of related commercial or industrial customers will be obligated to pay more than 10% of the nuclear asset-recovery charges.

Exhibit 9
Top 10 DEF Customers

	Industry	Energy Usage (MWh)	% of Total Energy Usage	Revenues ($000)	% of Total Revenues
1	Mining/Chemical Processing	691,591	1.79%	$46,289	1.06%
2	Education	456,852	1.18%	$37,972	0.87%
3	Retail Grocery	393,738	1.02%	$35,619	0.81%
4	Mining/Chemical Processing	340,470	0.88%	$23,343	0.53%
5	Education	252,072	0.65%	$27,720	0.63%
6	Retail Trade	250,016	0.65%	$24,409	0.56%
7	Stone/Clay/Glass	236,193	0.61%	$15,771	0.36%
8	Education	201,586	0.52%	$23,188	0.53%
9	Retail Grocery	199,997	0.52%	$19,744	0.45%
10	Government	175,246	0.45%	$16,124	0.37%
	Total	3,197,761	8.29%	$270,179	6.17%

Source: DEF

Remote Risk of Severe Ratepayer Base Declines

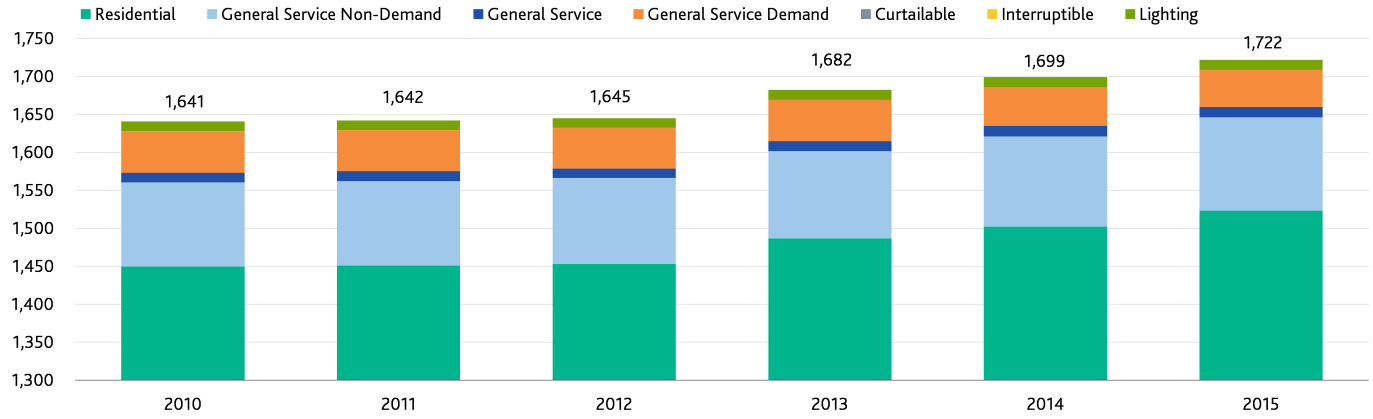
The ratepayer base is sensitive to many macroeconomic factors, including service area population and household formation growth, expected disconnects due to use of self-generation, changes in the service area and potential municipalizations. We view the risks to the transaction of ratepayer base declines due to any of these factors to be low.

Population Growth

Florida's robust population trend is a benefit to the transaction. According to the Census Bureau, the state's population grew an average of 1,000 residents per day in 2015. This 1.8% increase was the largest since 2006 and the strongest in the South. Despite the rapid rise, population growth will likely accelerate further because the pace remains historically weak. In the 50 years before the Great Recession, annual population growth in the state exceeded last year's pace by 47 times. Florida should also expect faster expansion because its cities appeal to Hispanics—the nation's fastest growing ethnic group—and retiring baby boomers— the fastest-growing age

group in the U.S. In 2015, for the third consecutive year, The Villages, Central Florida's retiree haven, was the nation's fastest growing metro area in population. Exhibit 10 shows that growth in the average number of DEF retail electric customers since 2010.

Exhibit 10
Average Number of Retail Electric Customers



Source: DEF

Self-Generation

We look at the potential for increased use of self-generation as a minor headwind to the transaction. Self-generation, which primarily includes solar, reduces the ratepayer base and increases the burden of nuclear asset-recovery charges on other non-self-generating ratepayers. Based on existing legislation precluding the use of third-party owned solar equipment, DEF expects the estimated cost of self-generation for customers, combined with the practical obstacles to installing on-site generation, to limit self-generation from being installed by any meaningful number of customers within the service area. DEF forecasts self-generation to grow slowly over the next three years, and incorporates self-generation into its electricity consumption forecasts. The securitization law and financing order do not provide for exit fees to be charged to any customers that might leave the grid to self-generate.

Change in Service Area

We look at the risk of a ratepayer base decline due to a change in the service are to be minimal. The nuclear asset-recovery charge will be recoverable from all DEF customers taking transmission or distribution service from DEF. Thus, if the service area expands in the future, the new DEF customers would be subject to the nuclear asset-recovery charge on a going-forward basis. Pursuant to the financing order, any successor to DEF is required to perform all obligations and have the same rights under the financing order as DEF, including the collection of the nuclear asset-recovery charges from customers and payment of appropriate amounts to the issuer.

Municipalization

We view the risk to the ratepayer base due to municipalization as low due to the nonbypassability of the charges and the likelihood that even after a municipalization, DEF's transmission and distribution services will continue to be used. While multiple municipal utilities exist in Florida, DEF is unaware of any municipality that has municipalized, or attempted to municipalize, a portion of an investor-owned utility's service territory in the absence of an agreement. One municipality, the City of Winter Park, was municipalized pursuant to such an agreement. DEF previously had a franchise agreement that provided Winter Park with a unilateral purchase option at the expiration of the franchise agreement. In the instance of the Winter Park municipalization, DEF sought affirmative permission from the FPSC to be relieved of its obligation to serve the City of Winter Park, which the FPSC subsequently approved. Any municipality using DEF's transmission and distribution system following a municipalization will be considered a successor and its customers will be subject to the nuclear asset-recovery charge.

Storm Damage

We view the risk of reduced collections due to weather to be low, and substantially mitigated via the true-up mechanism. Hurricanes, tropical storms or wind storms may impact DEF's operations, temporarily interrupting transmission, distribution and consumption of

electricity, hence reducing the collections of nuclear asset-recovery charges. There might be longer-lasting weather-related adverse effects on residential and commercial development and economic activity in the DEF service area, which could cause the per-kWh nuclear asset-recovery charge to be greater than expected.

The only year with any significant loss of energy consumption due to natural disasters was 2004, when a series of three Hurricanes struck the DEF service area. The impacts came from "Charley" (Aug 13-20), "Frances" (Sep 4-10) and "Jeanne" (Sep 25-30). Estimated lost energy sales came from studying reduced levels of daily system requirements totaling 400,000 MWh over these three disasters. This represents about 1% of the total annual electric usage for 2004 (38,193 GWh).

Forecasting Electricity Consumption

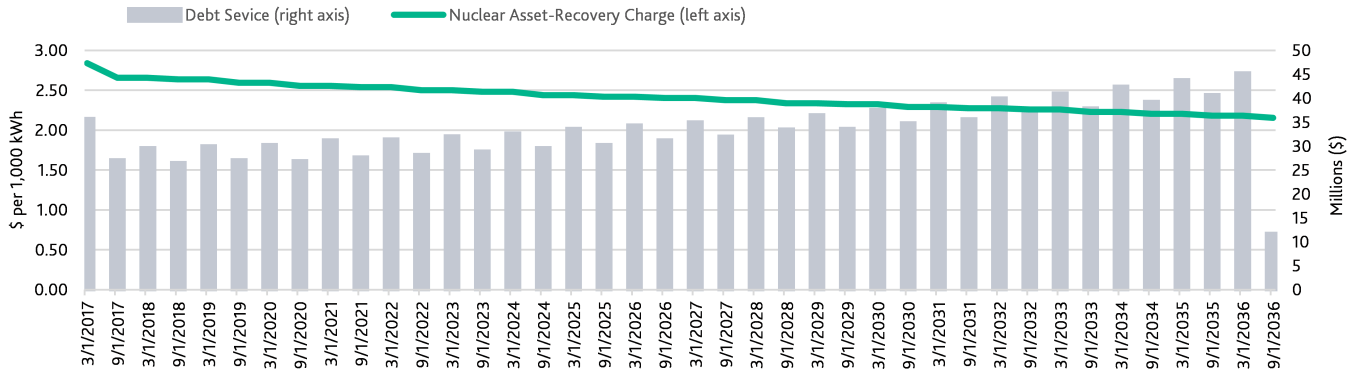
The nuclear asset-recovery charges are assessed based on forecasted customer usage. The amount and the rate of nuclear asset-recovery charge collections will depend in part on actual electricity consumption and the amount of collections and write-offs. If the servicer inaccurately forecasts electricity consumption or underestimates customer delinquency or write-offs when setting or adjusting the nuclear asset-recovery charges, there could be a shortfall or material delay in nuclear asset-recovery charge collections prior to the next true-up.

The forecast utilized in the proposed bond structure is the 2016 Ten Year Site Plan filed with the FPSC in April 2016. Internal forecasts are updated at least twice per year but are not filed with the FPSC. The DEF forecast of customers, energy sales, and peak demand applies both an econometric and end-use methodology. External sources of data include economic series from Moody's Analytics and State population data from the University of Florida's Bureau of Economic & Business Research. Internal company forecasts are used for projections of electricity price, and weather conditions. The forecast incorporates population and household trends, employment and production trends, technology and energy efficiency trends, and weather and climate trends. DEF has a more granular forecast for the phosphate industry, at the customer level, due to the high concentration of customers in this industry among DEF's industrial customer base.

Exhibit 11 shows the forecasted nuclear asset-recovery charge per 1,000 kWh and scheduled debt service payments.

Exhibit 11

Nuclear Asset-Recovery Charge and Debt Service ($ per 1,000 kWh)*



**Preliminary and subject to change based on market conditions*
Source: DEF; Moody's calculations

Forecast Variance

For there to be insufficient funds to pay ultimate principal and timely interest on the bonds, there would need to be unexpected, persistent and extensive drops in electricity consumption. Without an interim true-up adjustment, greater than 60% forecast variance would be needed leading up to any payment date to cause a payment default. Greater than 65% forecast variance would be needed in the first payment period to cause a payment default, assuming the servicer makes an interim true-up adjustment midway into the first payment period. By contrast the maximum forecast variance since 2011 has been less than 6%, as shown in Exhibit 12.

Exhibit 12
Annual Forecast Variance for Ultimate Electric Delivery (% of Forecast)

	2011	2012	2013	2014	2015
Residential	0.27%	-0.23%	-0.08%	2.14%	1.92%
Commercial	2.00%	0.82%	0.80%	1.40%	0.44%
Industrial	-3.09%	1.56%	-1.88%	3.87%	-3.25%
Public Authority	-2.40%	5.92%	0.50%	1.00%	-0.65%

Source: DEF

Cash Flow Analysis

We examined the cash flows that the nuclear asset-recovery charges will generate under various scenarios. In light of the strength of the ratepayer base, the purpose was primarily to see how high the nuclear asset-recovery charges can go as a percentage of a 1,000 kWh residential customer's bill and also to illustrate how the nuclear asset-recovery charges behave under various stress scenarios of customer demand. Our rating is primarily based on qualitative analysis of the political, legal and regulatory aspects of the securitization and the strength of the ratepayer base. However, we run these stress scenarios to confirm the level of the nuclear asset-recovery charges is consistent with other comparable transactions.

Even if the financing order is irrevocable, the nuclear asset-recovery charges or the law that authorizes them could be subject to challenge in the courts or to future political pressure to rescind or change them through legislation. Such challenge is more likely the higher the charges, i.e., the more the economic incentive for a challenge, or in circumstances where the financial imbalances in a utility system increase. Consequently, our economic analysis focuses on the size of the nuclear asset-recovery charge, both in absolute terms and as a percentage of the customer's energy bill. Even in our more extreme scenarios, the percentage of a residential customer's monthly bill devoted to the nuclear asser-recovery charge is less than 7%.

We looked at three scenarios:

Scenario Description and Projected Output

Base Scenario

1. Electricity consumption as per the projections by DEF, which increases annually by a compounded 1 - 1.5%, through bond maturity
2. Implied net charge-offs of 0.2615%
3. Collection Curve projects 13.3% of collections within 30 days and 86.4% of collections between 30-60 days
4. Servicing fee is 0.05% on an annualized basis of the original principal amount of bonds so long as the servicer remains DEF or an affiliate. While a back-up servicer has not been retained, the issuer can increase servicing fees to 0.60% to attract one if needed.

Stress Scenario 1

1. Electricity consumption decreases linearly by 5% every year until it reaches 50% of the projected consumption for residential customers and 65% for non-residential customers
2. Annual net charge-offs are the same as in base case
3. Collection curve is the same as in base case
4. Loss of 100% of the collections from the peak consumption month and 50% of the collections from the second highest consumption month each year
5. Replacement servicing fee of 0.60% per year of the initial bond balance with other expenses the same as in the base case

Stress Scenario 2

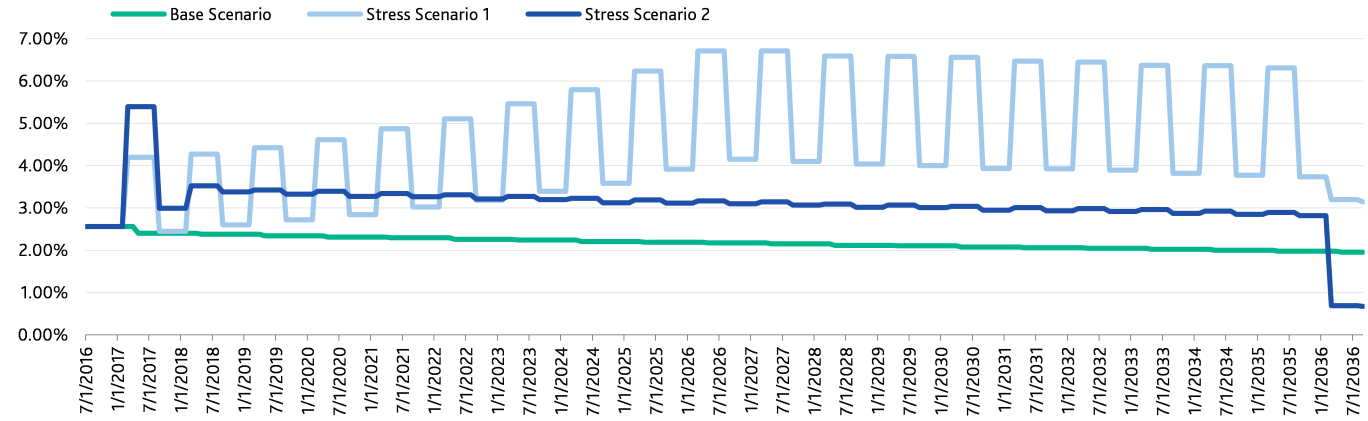
1. Electricity consumption is reduced by 25% permanently against the first year base case projection

2. Annual net charge-offs the same as in base case
3. Collection curve is the same as in base case
4. Servicing fee and all other fees the same as in base case

For all of the scenarios, the bonds are fully paid by their legal final maturity dates. Exhibit 13 shows the projected nuclear asset-recovery charge as a percentage of a 1,000 kWh residential customer's total bill, and Exhibit 14 shows the projected nuclear asset-recovery charges for customers per 1,000 kWh over the securitization's life. The periodic variance in the charges under the stress scenarios is due to the semiannual true-ups capturing seasonality in electricity usage.

Exhibit 13

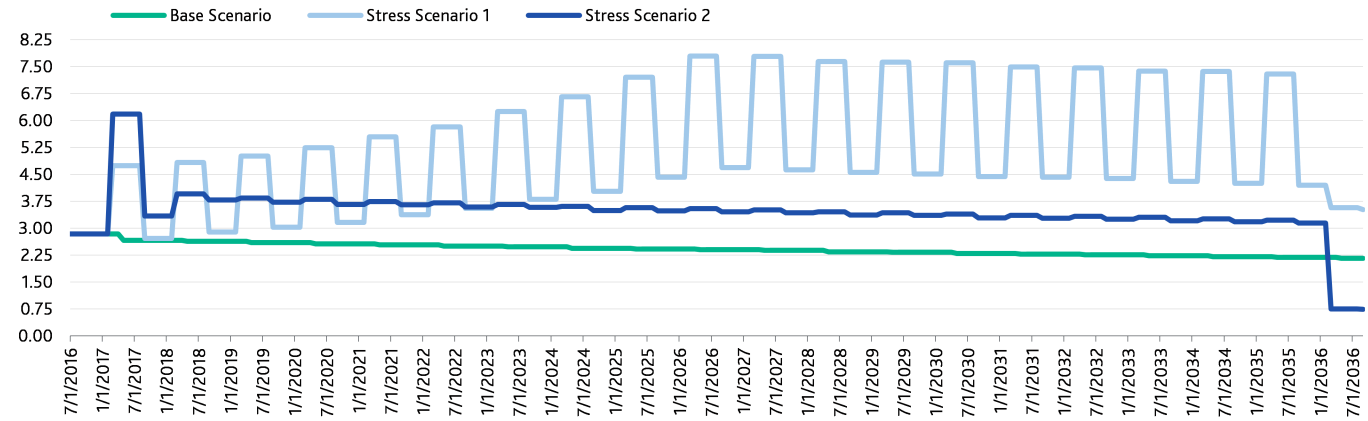
Nuclear Asset-Recovery Charge as a Percentage of a 1,000 kWh Customer's Total Bill



Source: DEF; Moody's calculations

Exhibit 14

Nuclear Asset-Recovery Charge ($ per 1,000 kWh)



Source: DEF; Moody's calculations

Comparables

As shown in Exhibit 15, stress scenario 1 is more stressful and results in a peak nuclear asset-recovery charge equal to about 6.94% of a 1,000 kWh per month customer's bill. This is low compared to other utility cost recovery deals.

Exhibit 15
Maximum Recovery Charge Comparison (% of a 1,000 kWh Customer's Bill)

Deal name	Base	Stress1	Stress2
DEF 2016-1	2.65%	6.94%	4.73%
UDSA 2016A	7.21%	16.04%	10.40%
UDSA 2015	7.00%	12.32%	7.89%

Source: Moody's

Securitization Structure Overview

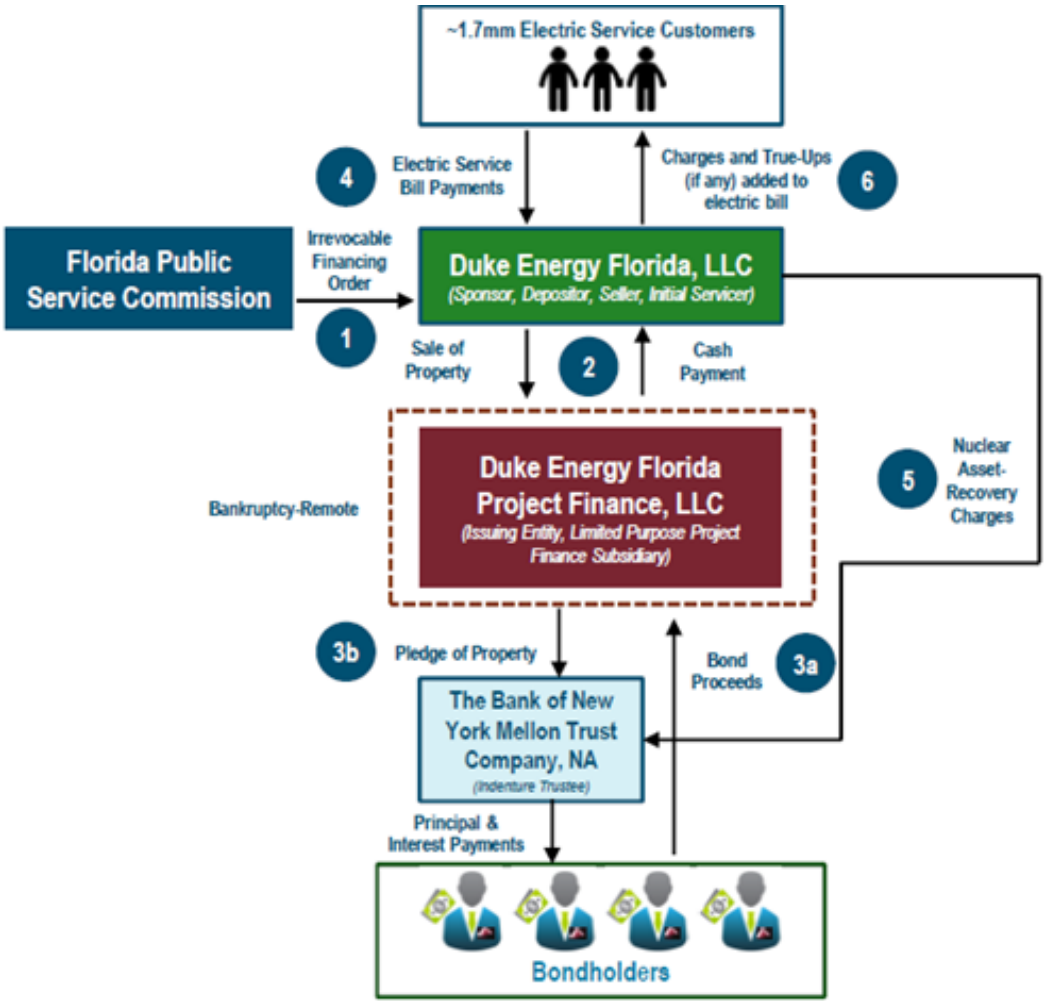
On the closing date, DEF will sell the nuclear asset-recovery property to the issuer pursuant to a sale agreement between the issuer and DEF. DEF will service the nuclear asset-recovery property pursuant to a servicing agreement between the issuer and DEF.

Securitization Structure Description

Structural Diagram

Exhibit 16 below illustrates the relationships between the transaction parties and bondholders.

Exhibit 16
Structural Diagram



Source: DEF

1. FPSC issues financing order, permitted under state statute, that creates nuclear asset-recovery property in the hands of DEF
2. Via a true sale, DEF transfers the nuclear asset-recovery property to the issuer in exchange for cash payment
3. (a) Nuclear asset-recovery bonds issued in exchange for cash payment from bondholders (b) Nuclear asset-recovery property is pledged to indenture trustee for benefit of the bondholders
4. Electric utility customers pay charge on electricity bills on joint and several basis
5. Payments from electric utility customers used to pay principal and interest on the bonds
6. At least semi-annually, and, as frequently as monthly (any time), charge on all electricity customers adjusted to whatever level necessary (i.e., not subject to cap) to ensure timely principal and interest payments on the bonds

Detailed Description of the Structure

Credit Enhancement

Credit enhancement for the bonds will be provided by the true-up mechanism, as well as by the capital subaccount. The primary purpose of the excess funds subaccount is not to provide credit enhancement for the bonds but to hold funds collected in amounts that were more than necessary to pay current debt service. However, amounts in the excess funds subaccount may be used to make debt service payments on the bonds when needed.

Capital Subaccount

On or before the date of issuance of the bonds, DEF will make a capital contribution to the issuer in an amount not less than 0.5% of the initial principal amount of the bonds, which will be deposited in the capital subaccount. Under the financing order, DEF will be entitled to a return on this capital contribution equal to the rate of interest on the latest maturing bond and payable according to the priority of payment set forth in the indenture and the series supplement.

Cash Commingling

The servicer is entitled to commingle the nuclear asset-recovery charges that it receives with its own funds until the funds are remitted to the indenture trustee on a daily basis. The securitization law provides that the priority of a lien and security interest is not impaired by the commingling of funds arising from nuclear asset-recovery charges with other funds.

The servicer will remit nuclear asset-recovery charges based on estimated collections using a weighted average balance of days outstanding on DEF's retail bills. Nuclear asset-recovery charge collections remitted will represent the charges estimated to be received for any period based upon the average days outstanding and an estimated system-wide write-off percentage.

No less often than annually, the servicer and the indenture trustee will reconcile remittances of estimated nuclear asset-recovery charge collections with actual payments received. To the extent the remittances of estimated payments exceed the amounts that should have been remitted, the servicer will be entitled to withhold the excess amount from any subsequent remittance. To the extent the remittances of estimated payments are less than the amount that should have been remitted, the servicer will remit the amount of the shortfall to the indenture trustee within two business days.

Payment Priority

On each payment date, the indenture trustee will pay all amounts on deposit in the general subaccount of the collection account in the following order of priority:

1. payment of the indenture trustee's fees, expenses and outstanding indemnity amounts in an amount not to exceed annually $500,000 in the then current calendar year;
2. payment of the servicing fee plus any unpaid servicing fees from prior payment dates;
3. payment of the administration fee to the extent due on that payment date and of the fees of our independent manager plus any unpaid administration or management fees from prior payment dates;

4. payment of all of our other ordinary periodic operating expenses;
5. payment of the interest then due, including any past-due interest;
6. payment of the principal required to be paid on the final maturity date for each series or as a result of acceleration upon an event of default;
7. payment of the principal then scheduled to be paid in accordance with the expected sinking fund schedule, including any previously unpaid scheduled principal, paid pro rata among the bonds if there is a deficiency;
8. payment of any of our remaining unpaid operating expenses and any remaining amounts owed pursuant to the basic documents;
9. replenishment of any amounts drawn from the capital subaccount;
10. release to DEF of an amount equal to the rate of return on the amount contributed to the capital subaccount, including any portion of such rate of return for any prior payment date that has not yet been paid, so long as no event of default has occurred and is continuing; and
11. allocation of the remainder collected, if any, to the excess funds subaccount for future payments.

Events of Default

An event of default with respect to the bonds is defined in the indenture as any one of the following events:

1. a default for five business days in the payment when due of any interest on any bond;
2. a default in the payment of the then unpaid principal with respect to any series on the final maturity date for that series;
3. a default in the observance or performance of any covenants or agreements made by the issuer in the indenture or the series supplement (other than defaults described above) which continues for 30 days;
4. any representation or warranty made by the issuer having been incorrect in any material respect as of the time made, and such breach not having been cured within 30 days;
5. certain events of bankruptcy, insolvency, receivership or liquidation with respect to the issuer; or
6. a breach by the State of Florida or any of its agencies (including the FPSC), officers or employees that violates the pledge of the State of Florida.

Issuance of Additional Bonds

As authorized by the financing order, the issuer's organizational documents and the transaction documents give the issuer authority and flexibility to issue additional nuclear asset-recovery bonds in future transactions, with the approval of the FPSC. Each series of nuclear asset-recovery bonds that may be issued will be backed by separate nuclear asset-recovery property the issuer acquires for the separate purpose of repaying that series. Any new series of such securities may include terms and provisions that would be unique to that particular series of nuclear asset-recovery bonds. However, the issuer may not issue additional nuclear asset-recovery bonds unless the rating agency condition for the bonds has been satisfied.

Asset Transfer, True Sale and Bankruptcy Remoteness

The securitization law provides that an electric utility's transfer of nuclear asset-recovery property is a true sale and is not a pledge of or a secured transaction relating to the electric utility's right, title and interest in the nuclear asset-recovery property (other than for federal and state income and franchise tax purposes) and that legal and equitable title passes to the transferee, if the agreement governing that transfer expressly states that the transfer is a sale or other absolute transfer.

The issuer's limited liability company agreement requires that it have at least one independent manager, whose selection and replacement will be subject to ratification by the FPSC. The limited liability company agreement does not permit the issuer to engage in any activities not directly related to purchasing and owning the nuclear asset-recovery property and issuing one or more series of nuclear asset-recovery bonds. The list of permitted activities set forth in the limited liability company agreement may not be altered,

amended or repealed without the affirmative vote of a majority of the managers, which vote must include the affirmative vote of the independent manager.

Sponsor and Seller

DEF is the sponsor of the transaction and the seller of the nuclear asset-recovery property. DEF, a Florida limited liability company, is a regulated public utility primarily engaged in the generation, transmission, distribution, and sale of electricity in portions of Florida. DEF is an indirect, wholly-owned subsidiary of Duke Energy Corporation, one of the largest regulated utility holding company in the US.

DEF is subject to the jurisdiction of the Florida Commission with respect to retail utility rates, accounting, utility services, certain facilities, certain asset transfers, certain corporate mergers and other matters. DEF is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act with respect to acquisitions, operations and disposals of certain assets and facilities, services provided and rates charged, conduct among affiliates and other matters, and its nuclear power plant is also subject to the jurisdiction of the Nuclear Regulatory Commission.

Administrator

DEF will provide or arrange for the provision of administrative services to the issuer pursuant to an administration agreement, including services relating to the preparation of financial statements, required filings with the SEC, any tax returns the issuer might be required to file, qualifications to do business, and minutes of the issuer's managers' meetings. DEF, as administrator, will be entitled to receive an annual administration fee of $50,000 payable annually, in arrears. The administrator may not resign or be removed without satisfaction of the rating agency condition.

Securitization Structure Analysis

The Series A bonds are a relatively simple sequential structure without subordination and the capital subaccount provides sufficient funds to offset the typical variance in collections versus projections in order to meet the projected amortization schedule between the semi-annual true-ups.

Methodology and Monitoring

The principal methodology used in this rating was Moody's Approach to Rating Securities Backed by Utility Cost Recovery Charges published in June 2015. Please see the Credit Policy page on www.moodys.com for a copy of this methodology.

Other methodologies and factors that may have been considered in the process of rating this issue can also be found in the Rating Methodologies sub-directory on www.moodys.com.

In monitoring this transaction, we apply the key components of our methodology. More specifically, we analyze, whether bond balances are in line with the scheduled principal amortization, which indicates the extent to which payments have been in line with our original expectations.

We review the periodic information received and look at whether there has been a draw on the reserve accounts. This data point provides further clues as to the steadiness of the cash flows and accuracy of true-up adjustments.

In addition, we analyze the factors that determine the future strength of the transaction. For example, we monitor any legal or political developments that could indicate an increased risk of changes in the legislation that could impair future cash flows to the transactions. Such risk may materialize, for example, in case of continued high financial imbalances in the system that may lead the system deficit to be viewed as unsustainable over the long-term.

We also follow the economic health of the service region and the potential for changes in the size and composition of the ratepayer base. Furthermore, we monitor the rating of DEF (as an indicator of its financial condition) to track the risk, typically quite small, that a bankruptcy could lead to disruption in billing and collections and in the remittance of payments to the bondholders.

Thus changes in our expectations and other analytical components could have an impact on the rating of the securities and may result in a reassessment of the rating

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MOODY'S
INVESTORS SERVICE

Standard & Poor's Reviews, Affirms, 68 Classes From 31 Stranded Cost Transactions

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OVERVIEW

- We affirmed our ratings on 68 classes from 31 stranded cost securitizations.
- All of the transactions are backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts supporting our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations.

NEW YORK (Standard & Poor's) Feb. 25, 2013--Standard & Poor's Ratings Services today affirmed its ratings on 68 classes from 31 stranded cost securitizations (see list).

The affirmations reflect the transactions' ongoing stable performance and their continued ability to pay interest and principal in a manner commensurate with an 'AAA (sf)' rating stress, in our view.

Stranded cost securitizations are typically backed by stranded assets created by statute with credit enhancement provided by true-up mechanisms and reserve accounts. As currently constructed, the enhancement supports our 'AAA (sf)' ratings in accordance with our criteria for stranded cost securitizations. These securities traditionally have been created under state legislation in conjunction with the state utility commission, with the utility as the

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seller/servicer of the assets. Key features of the deals include:

- There are irrevocable statutory provisions and regulatory approvals, including the creation of mandatory periodic true-up of a nonbypassable transition charge and an absolute transfer and first-priority security interest in transition property;
- The true-up mechanisms are in place to ensure the transition charge can be adjusted to reflect any deficit in collections, as well as any other credit enhancement accounts; and
- There are typically cross-collateralization features such that all the customer classes help pay down the bonds. There may be certain deals that have rate caps and/or do not allow cross-collateralization.

For more information on legal and economic defeasance, please see "Securitizing Stranded Costs," published Jan. 18, 2001 on RatingsDirect.

As part of our regular surveillance, we reviewed and affirmed 68 classes from 31 stranded cost transactions.

Standard & Poor's will continue to monitor the securitizations and take rating actions as we deem necessary according to our criteria.

STANDARD & POOR'S 17G-7 DISCLOSURE REPORT

SEC Rule 17g-7 requires an NRSRO, for any report accompanying a credit rating relating to an asset-backed security as defined in the Rule, to include a description of the representations, warranties and enforcement mechanisms available to investors and a description of how they differ from the representations, warranties and enforcement mechanisms in issuances of similar securities. The Rule applies to in-scope securities initially rated (including preliminary ratings) on or after Sept. 26, 2011.

If applicable, the Standard & Poor's 17g-7 Disclosure Report included in this credit rating report is available at http://standardandpoorsdisclosure-17g7.com

RELATED CRITERIA AND RESEARCH

- Standard & Poor's To Explicitly Recognize Credit Stability As An Important Rating Factor, Oct. 15, 2008
- Principles-Based Rating Methodology for Global Structured Finance Securities, May 29, 2007
- Legal Criteria For U.S. Structured Finance Transactions: Special-Purpose Entities, Oct. 1, 2006
- Securitizing Stranded Costs, Jan. 18, 2001

RATINGS AFFIRMED

AEP Texas Central Transition Funding II LLC
A
Rating

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A2	AAA (sf)
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

AEP Texas Central Transition Funding LLC
2002-1

	Rating
A-4	AAA (sf)
A-5	AAA (sf)

Atlantic City Electric Transition Funding LLC
2002-1

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Atlantic City Electric Transition Funding LLC
2003-1

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Centerpoint Energy Restoration Bond Company, LLC

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

CenterPoint Energy Transition Bond Company II LLC
A

	Rating
A3	AAA (sf)
A4	AAA (sf)
A5	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

CenterPoint Energy Transition Bond Company LLC
2001-1

	Rating
A4	AAA (sf)

2008

	Rating
A-1	AAA (sf)
A-2	AAA (sf)

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Consumers Funding LLC
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Detroit Edison Securitization Funding LLC (The)
2001-1

	Rating
A-5	AAA (sf)
A-6	AAA (sf)

Entergy Gulf States Reconstruction Funding I LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Entergy Texas Restoration Funding, LLC
Senior Secured Transition

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)

FPL Recovery Funding LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding II LLC
2006-A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

JCP&L Transition Funding LLC
2002-A

	Rating
A-3	AAA (sf)
A-4	AAA (sf)

Louisiana Public Facilities Authority-EGSL
2008

	Rating
A-1	AAA (sf)

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A-2	AAA (sf)
A-3	AAA (sf)

Louisiana Public Facilities Authority-ELL
2008

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

Massachusetts RRB Special Purpose Trust 2005-1
2005-1

	Rating
A-4 BEC	AAA (sf)
A-4	AAA (sf)
A-4 CEC	AAA (sf)

Massachusetts RRB Special Purpose Trust WMECO-1

	Rating
A	AAA (sf)

MP Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

MP Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PE Environmental Funding LLC
A

	Rating
A-1	AAA (sf)
A-2	AAA (sf)
A-3	AAA (sf)
A-4	AAA (sf)

PE Environmental Funding LLC
B

	Rating
Series B	AAA (sf)

PSE&G Transition Funding II LLC
2005-1

	Rating
A-3	AAA (sf)

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A-4	AAA (sf)

PSE&G Transition Funding LLC
2001-1

	Rating
A-6	AAA (sf)
A-7	AAA (sf)
A-8	AAA (sf)

PSNH Funding LLC
2001-1

	Rating
A-3	AAA (sf)

Rockland Electric Company Transition Funding LLC
2004-1

	Rating
2004-1	AAA (sf)

RSB BondCo LLC
A

	Rating
A-2	AAA (sf)
A-3	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2003-1

	Rating
A-4	AAA (sf)

TXU Electric Delivery Transition Bond Company LLC
2004-1

	Rating
A-3	AAA (sf)

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Securitizing Stranded Costs

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Table Of Contents

Business and Legal Overview

Overview of Stranded Cost Securitization

The Rating Approach

Related Criteria

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Securitizing Stranded Costs

*(**Editor's Note:** We originally published this criteria article on Jan. 18, 2001. We've republished it following our periodic review completed on Dec. 1, 2016. As a result of our review, we updated the contact information and the related criteria, and corrected a reference in the section "Adequate Provision.")*

Electric utilities historically have enjoyed protected monopolistic status, in return for an obligation to provide service to the customer base whenever requested. In return, utilities have made significant long-term investments and entered into long-term power purchase contracts with the expectation that these would be recoverable through customer rates. In 1992, the enactment of the National Energy Policy Act introduced wholesale electric competition into the industry. Since then, almost half the states have taken steps toward a competitive retail market by legislating or ordering frameworks for "retail access," through which all customers will be able to choose their own electric generation supplier. With a competitive market taking shape, many utilities have found themselves saddled with significant unrecoverable contractual and sunk costs, generically known as stranded costs. These stranded costs are not new, but rather have already been approved by regulators and are incorporated in existing utility rates as part of traditional cost-plus regulation. If utilities are to compete in a deregulated market, however, they cannot pass these stranded costs along to customers. In many cases, the inability of a utility to recover a significant portion of these costs would result in significant financial deterioration, and in the worst cases, insolvency.

As noted, many legislatures and state regulatory commissions have established the means by which utilities can avert financial deterioration while also providing customers with lower rates. Asset-backed securitization is one such alternative. In several states, such as California, Pennsylvania, Massachusetts, Texas, New Jersey, Michigan, New Hampshire, Connecticut and Illinois, legislatures have enacted laws that enable utilities to finance the recover-y of at least a portion of their stranded costs by issuing bonds backed by a statutory right to recover stranded costs.

In December 1997, the three California investor-owned utilities: Pacific Gas & Electric Co., Southern California Edison Co., and San Diego Gas & Electric Co., securitized more than $6 billion of their approximately $28 billion of total stranded investment. During 1998, Illinois Power Co. securitized $864 million followed by Commonwealth Edison Co.'s $34 billion securitization transaction. In 1999, one Massachusetts utility and three Pennsylvania utilities completed securitization transactions. Boston Edison Company issued $725 million of rate reduction certificates. PECO Energy Co. issued $4 billion, PP & L Inc. issued $2.42 billion and West Penn Power Company issued $600 million of transaction bonds. In 2000, PECO issued an additional $1 billion and in 2001, utilities in New Jersey, Connecticut, Michigan, and Texas may come to market with rate reduction bonds.

Utilities in states that have not yet addressed industry restructuring through legislative action or regulatory order, such as Indiana, Kentucky, Florida, and North Carolina, are generally low-cost producers with limited, if any, stranded assets. These states are much less motivated, therefore, to pursue industry restructuring, let alone securitization, at the present time. Whether or not these states ultimately pass relevant legislation, however, the relative competitive standing of their utilities will inevitably be diluted as high-cost utilities in other states shed a substantial portion of their high-cost assets through securitization.

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Standard & Poor's believes that securitization of stranded costs is at least neutral, and generally positive for utility credit quality. The utility acquires cash up front, instead of receiving an increasingly at-risk revenue stream over time. Proceeds of the securitization are expected to be used principally to shrink a utility's total capitalization structure, including retiring debt that carries a higher coupon than that borne by the highly rated securitized bonds. In most cases, these interest savings are passed along directly to customers in the form of lower rates. Generally, the amount of rate reduction bonds that the utilities issued was designed specifically to generate a legislatively mandated rate reduction for customers.

Business and Legal Overview

What Are Stranded Costs?

Stranded costs are broadly defined to include any costs that were incorporated in the traditional regulatory cost-plus scheme that cannot be passed on to customers in a competitive marketplace. The most significant of these stranded costs are investments in high-cost nuclear and fossil plants. They also include deferred and capitalized operating costs, conservation and economic development expenditures, nuclear decommissioning costs, and long-term contractual obligations with high cost nonutility generators.

In the past, utilities constructed large, centrally located plants to gain economies of scale in producing electricity. Extremely long construction lead times and overly aggressive demand forecasts caused management to err on the side of oversupply to meet customer demand. Furthermore, the monopoly environment meant utilities lacked a strong incentive to contain costs. Indeed, the larger a utility's rate base was, the more investment on which the utility could earn a return. In addition, costs were exacerbated by circumstances. The last round of base-load construction occurred in the late 1970s and early 1980s, which was an era of high inflation and high interest rates. Finally, the nuclear incident at Three Mile Island in 1979 resulted in heightened Nuclear Regulatory Commission supervision, extending the timetable for plant completions and elevating capital costs significantly.

Since that time, new technologies have greatly reduced the cost of building generating facilities. Even more importantly, the economics of building smaller plants have continued to advance. The lead time for construction has been drastically reduced, from as much as 10 years to as little as 18 months. This reduction is in part due to the construction of much smaller-scale highly efficient plants. As a result, the cost of incremental generation today is significantly lower than the embedded cost of plant of most utilities. The differential is most evident in nuclear plants. For instance, the 1,143 megawatt (MW) Nine Mile Point 2 nuclear plant, operated by Niagara Mohawk Power, was completed in 1988 at a cost of about $5,000 per kilowatt (kW), after a construction period of more than 10 years. This compares with a 500 MW gas-fired combined-cycle plant today that can be built in about 18 months at a cost of $450 to $550 per kW. While prudency hearings did lead to significant write-offs during the rate base proceedings of Nine Mile Point 2, the bulk of these costs were simply included in rates and are now being recovered from customers over a lengthy period of time.

Developments in Industry Environment

The enactment of the National Energy Policy Act of 1992 (NEPA) marks the beginning of the end of the last major government-protected monopoly. NEPA authorized the Federal Energy Regulatory Commission (FERC) to mandate

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that utilities become open-access common carriers for wholesale electric sales, known as wholesale wheeling. Wholesale sales are bulk power sales between utilities or between a utility and a third-party producer. If two utilities are not interconnected, they would need access to a third party's transmission network to complete such a transaction.

The ability of a utility to sell power to an end user that is not within its franchise service territory, or the sale of power from an independent power producer to an end user, is called "retail wheeling." Currently, utilities are not permitted to engage in retail wheeling. However, retail customers, aware that there may be cheaper power sources than their current supplier, are pressuring state regulators to permit them to buy power from alternative suppliers. While most regulators agree that competition will lower the price of power, some assert that the objective is not merely to lower rates, but to provide customers with the option to choose their power provider. The vast majority of utilities and regulators concur that retail wheeling is inevitable, so states have had to grapple with how to make the transition from a regulated to a competitive environment. As mentioned earlier, many states have passed laws to phase in direct access to all customers and most of these legislative initiatives include securitization of stranded costs as a means of reducing utilities' financial exposure to a competitive retail environment.

Recovery of Stranded Costs

Vertically integrated electric utilities provide customers with three basic functions: generation, transmission, and distribution. Because of legal, regulatory, and technological advances, generation no longer displays monopoly characteristics. Transmission and distribution, or the "wires" function, on the other hand, will likely remain natural monopolies for the foreseeable future since it would be prohibitively expensive, and environmentally difficult, to construct redundant wires. Transmission consists of the high-voltage system that moves power in bulk from generating plants to an electric distribution system or a load center. Distribution receives stepped-down power, which is then transported at lower voltages to individual end users.

As part of various state legislative initiatives, utilities are being required to functionally, if not legally, disaggregate the vertically integrated components of their business. The costs of each function will be determined and itemized, or "unbundled," on customers' bills. While customers may purchase the actual electrons from a source other than their local utility, they must continue to transport this power over the distribution wires owned by their local utility. The local utility will use its wires system to charge customers for the services it provides, which will include transmission of power bought from other suppliers. Other services, such as billing and metering, could be maintained by the utility or could be opened to competition as well. Any stranded cost that is identified, isolated, and by mandate recoverable in utility rates, will also be recovered as a "wires charge;" it cannot be recovered as part of a generation charge, since customers may purchase generation from an alternative source.

Stranded costs, which have been realized as such only with the prospect of a competitive market, are included in current utility rates, but they are being amortized over as long a period as 30 to 40 years. Utilities need to accelerate the recovery of these above-market costs as quickly as possible if they are to lower their rates in preparation for a competitive environment.

Statutory Securitization of Stranded Costs

Until now, securitization of stranded assets has been made possible by state statute. In general, such statutes provide that the stranded assets themselves, plus interest on any bonds backed by stranded assets, the costs of servicing the

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bonds, and the costs of bond issuance all be collected through imposition of a tariff that is collectible from the utility's customers. While differing in particulars, the legislation in Pennsylvania, California, Illinois, Massachusetts, Texas, Connecticut, New Jersey, and elsewhere shares certain characteristics that are significant from a rating perspective.

The statutes specifically provide for securitization of the stranded costs through their sale to a financing subsidiary, and ultimately, to a trust that issues the bonds. The statutes award true sale status to the transfer of the stranded assets to a finance subsidiary. This should help support the legal conclusion that the transfer constitutes a true sale for bankruptcy purposes.

The statutes also provide that any proposal for a securitization of stranded assets be approved on an irrevocable basis by the relevant utility regulatory commission. The commission must set a tariff schedule. A tariff would be included in the ordinary bills sent to customers, and would amortize the stranded assets over the life of the proposed securitization. The tariff would be a separate itemized charge on the customer's bill, and could be either a fixed charge or tied to electricity usage, in either case included in the utility's wires charge. In scheduling the tariff needed to amortize the assets fully, the commission will take into account the utility's forecast regarding the projected size and demographics of its customer base. Where the tariff is tied to electricity usage, predicted customer usage will be important.

The tariffs that are actually collected from customers may fall short of what was originally anticipated. In addition to defaults in bill payments, the customer base might decline due to economic and/or technological factors, or usage might vary from what was originally predicted. This might happen, for instance, if the winter is unusually warm or the summer particularly cool. These are credit risks that could impact the ability of the tariff to amortize the assets fully. To address these risks, the legislatures have created a statutory form of credit support, known as the "true-up" mechanism. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers, so that the bond amortization schedule is met. This minimizes credit risk, except in the tail end of the transaction after the final true-up has occurred. Liquidity risk will, of course, exist during the periods between true-ups, to the extent that collection shortfalls occur.

The true-up mechanism also may effectively minimize prepayment risk. While there may be a tariff collection shortfall, it is also conceivable that excess collections may be received. This might occur, for example, if the customer base grows at a greater rate than originally anticipated when the tariffs were established. If collections exceed expectations for a particular period, the true-up mechanism could potentially reduce the remaining tariffs accordingly, so that the remaining transaction amortizes as scheduled.

When the utility applies for a true-up, the commission may not grant it immediately. The commission's delay will add to liquidity risk, because the shortfalls in collections to be remedied by the true-up will last for a longer period, until the commission finally grants the true-up. A delay by the commission will not create credit risk during the transaction, because once the true-up is in place, the adjusted tariff will take into account any collection shortfalls caused by its delay. But a delay in the true-up could result in a credit loss at the tail end of the transaction. The commission might take so long to grant the true-up that the final true-up never occurs. The statutes prevent this potential credit loss, as well as limit liquidity risk caused by a delay, by setting a deadline for implementation of the true-up. For example, California requires that the commission implement a true-up within 90 days of each anniversary date of the

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transaction. Other statutes simply require that the true-up filing with the commission becomes effective as early as the subsequent month.

The duration of these transactions and the ability to impose true-up periods and tariff collections indefinitely depend initially on whether the statutes impose a limit on how long the tariff may be collected from the utility's customers. Even where no limit is set as a statutory matter, the final true-up period, and the deadline for tariff collection, will depend on the legal final maturity date set for the bonds.

A utility might change hands for some reason, or file under Chapter 11 of the U.S. Bankruptcy Code. Such an event could strike at the heart of a potential securitization. Stranded assets will not be recovered unless the utility continues to provide electricity, bill its customers, transfer the tariff to the securitization trust, and apply for true-ups when necessary. The statutes address this problem by requiring that any successors to the utility, whether through bankruptcy, merger, or sale, must perform all of the utility's obligations in connection with the securitization.

The statutes provide another feature, by providing that, contrary to what would usually occur under the Uniform Commercial Code (UCC), there is a continued security interest in collections that have been commingled with other funds of the utility. This eliminates the usual credit risk associated with commingled funds in the event of a bankruptcy of the utility, although it fails to alleviate the liquidity risk and potential credit risk caused by the automatic stay (see Protection Against Credit Risk Caused By Commingling).

Finally, the statutes purport to create new property interests that must be perfected in a manner different from a UCC security interest. However, there is the possibility that stranded assets might still be considered subject to the prior lien of existing mortgage bonds. As a result, proceeds of the securitization might need to be applied to pay down the debt secured by the prior lien. This would, in any event, be positive from a credit perspective, because the bonds being retired (typically general obligation bonds bearing the rating of the utility) would have a higher interest rate than the 'AAA' rated securitized bonds used to retire the obligations.

Significance of Statutory Securitization

To date, stranded cost securitizations rated by Standard & Poor's have been based on legislation promulgated specifically for that purpose. Nevertheless, Standard & Poor's understands that, as a regulatory matter, state public utility commissions have, de facto, historically permitted recovery of stranded costs through rate adjustment.

While public utility commission regulatory action may well be sufficient to accomplish a securitized recovery of stranded costs, Standard & Poor's believes that there may be certain advantages to a legislation-backed securitization. Statutes have the benefit of having undergone the political process. Affected interests are given the opportunity to introduce, and argue for, their respective views. Hearings, drafting and amendments, floor debate, and overall legislative, and press and public scrutiny is the process by which political compromise is achieved and consensus built. The political process is viewed as investing the resulting legislation with a considerable degree of stability and support.

Viewed from the perspective of legal capacity, legislation has other advantages. At the heart of stranded cost securitization is the creation of a property right in the transition charges that serve as the basis for debt service. While it is clear that state legislatures are empowered by due process of law to create property rights, and to define and record how these rights are to be enjoyed, the ability of a state public utility commission to achieve the same end by

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regulatory compact may not be as certain.

Statutory status provides both constitutional and political protection against the risk that the creation and pledge of securitization property might be impaired by subsequent amendment. Historical precedent indicates that a legislature is unlikely to reverse itself once it has enacted a statute. Even if a political reversal were to occur, the Pennsylvania, Massachusetts and California statutes recognize that the bondholders possess certain constitutionally protected rights. Both statutes provide that if the right to recover stranded assets is compromised in any way, the bondholders are entitled to adequate compensation.

Nevertheless, in jurisdictions where public utility commissions may reasonably be viewed to have the capacity and authorization to order a recovery of stranded costs through a securitization-type procedure, and in which the commission has a stable history of consistent regulatory action, and in which the courts have paid regular deference to commission order, Standard & Poor's will consider regulatory-based recovery procedures case by case. However, any such consideration will necessarily involve a comparison by Standard & Poor's of the proposed regulating action and its enactment in contrast to rated, statute-based recovery plans.

Overview of Stranded Cost Securitization

Differences From Traditional Asset-Backed Transactions

Several key aspects differentiate the securitization of stranded costs from the securitization of more conventional asset types.

Cash Flow Receivables In a typical securitization, the originator of the assets transfers a pool of receivables to a trust and receives payment based on an agreed-upon value for those receivables. The key in this case is that the receivables have already been created. In contrast, stranded assets are not traditional receivables. Although the statutes create a present property right to future collection there is no initial cash flow backing the debt. Stranded assets represent the present right to the cash flow from receivables that will be created in the future when performance, in this case power generation and delivery, has been provided. But until this performance by the utility company takes place, the customer is not obligated to make any payments. Power generation is thus critical to assure full and timely payment to securityholders. As a result, there is a greater dependence on the utility as seller/servicer to do more than just collect payments on existing receivables and liquidate collateral to the extent needed.

Dependence on Servicer Servicer bankruptcy filings generally cause a change in servicer in most asset-backed transactions to prevent any disruptions in the required servicing and collections on the portfolio. Therefore, a substitute servicer must be ready and willing to take over all servicing responsibilities, if necessary. But unlike in typical securitizations, the transaction cannot fully rely on a substitute servicer. A utility does not just collect payments; it must continue to provide power. Because provision of electricity is fundamentally a necessary service, however, Chapter 7 liquidations are unlikely. In contrast, utilities will continue to operate in Chapter 11 reorganization, and thus, provide power and enforce collection from customers. Security is provided by the statutory mandate that collection obligations must be assumed by any successor corporation, including successors pursuant to reorganization, or otherwise. Due to the regulated nature of the industry a state-by-state review of successor servicing arrangements will be performed by Standard & Poor's.

True-up as Credit Support Credit support is entirely structured within the finances of the typical securitization. In contrast, in these transactions credit support has been provided by the statutory true-up mechanism. The parties must initially come up with a proposed amortization schedule. This schedule determines the tariff to be charged to recover

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the stranded costs, as well as the costs of the securitization itself. In setting this tariff schedule, the utility makes certain assumptions about charge-offs and sales over the following year or even decade. These assumptions will necessarily be inaccurate, especially as the date of forecast becomes increasingly remote. As a result, the stranded costs collected from customers could be less than those needed to repay the bonds. The true-up addresses this risk. The statutes provide that the utility periodically apply to the commission for a readjustment of the tariffs. The commission must then readjust the tariffs charged to customers. This effectively eliminates credit risk, except in the tail end of the transaction after the final true-up has occurred.

It should be understood that the true-up is not quite the same thing as an unlimited cash collateral account. Because the true-up will only be as good as collections in the following year, the amount of a current year's shortfall will not be fully recovered in the next year, due to charge-offs and forecast error occurring in that year. The amount will decrease over time, however, as successive true-ups are implemented. Where statutes do not place a limit on the tenor of the bonds and permit indefinite true-ups, the legal final maturity can simply be extended as a structural matter to gain the benefit of additional true-ups. This allows for as many true-ups as necessary to reduce the shortfalls that cannot be collected because they occur in what may have been originally contemplated as the final year of the transaction.

The true-up can make the amortization schedule for the bonds more predictable, unless dramatic consumption changes occur. This is because the true-up may adjust the amount payable to the trust by the customer base to the extent that there has been a shortfall or surplus in the prior period.

Perfection Mechanisms As stated above, the statutes provide for their own methods and location for filing and perfecting stranded assets. This may or may not result in the conclusion that stranded assets are new property interests not subject to UCC filing and priority rules, and thus are not subject to prior liens under the UCC.

Overcollateralization as Additional Credit Enhancement As mentioned earlier, the true-up mechanism will play an integral role in the transaction structure. The frequency of the true-up, for example, will influence the need for additional credit enhancement. Overcollateralization is the most likely form of credit support. Overcollateralization would cover the risks in the stub period following the final true-up, as well as make up for past shortfalls in collections that were never fully trued-up in the past.

Sale Accounting and FAS 125 Stranded cost securitizations do not possess sale status as an accounting matter under FAS 125. The Security Exchange Commission's Office of Chief Accountant has indicated that while the utilities may be able to sell the right to recover stranded costs as a legal matter, they will not be able to remove the assets (and associated debt) from their balance sheets under FAS 125. Nevertheless, as long as the transaction is structured as a true sale for legal purposes, Standard & Poor's will "back out" for analytical purposes nonrecourse debt and associated carrying costs from the utility's consolidated financial statements. While off-balance-sheet treatment would have enabled a more clear-cut analysis, Standard & Poor's will attempt to recognize the economic (as opposed to the accounting) reality.

Debt for Tax Treatment Any utility intending to securitize stranded costs will likely seek a private letter ruling from the IRS that states that the sale of the assets constitutes a "debt for tax transaction." In other words, the sale would not result in the immediate recognition of income. If the sale were deemed to provide immediate income, the utility would incur an immediate tax liability as well. This would destroy the economics of a securitization.

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The Rating Approach

Specific credit and legal risks that arise in securitizing stranded costs are addressed below. Standard & Poor's pursues a general rating methodology that attempts to stress in cash flows the ability of the true-up mechanism to ensure timely payment of interest and repayment of principal. In addition, it attempts to determine the number of true ups needed to meet these payments, that is, the structure's ability to meet its legal final maturity.

Credit Risks

Inaccuracy in Forecasting As mentioned earlier, the funds necessary to pay the stranded assets of the issuer are dependent on the tariff set by the commission and collected from the utility's customers. Tariff schedules are compiled for each customer class so that, taken together, the tariffs charged will amortize the stranded assets over the life of the securitization, while making timely interest payments. The tariff amounts themselves are based on estimates of cash flows to be collected from the customer base. The tariff amounts are thus determined based on such factors as the utility's forecast of population growth or decline, and seasonality in expected usage.

A shortfall in tariff collections can be caused by lower than expected usage due to:

Unanticipated customer migration (anticipated migration is included in the forecasting). Residential and small business customers are considered low risk in terms of customer migration. Large industrial customers, on the other hand, are considered a significant risk that requires additional stress to the cash flows (see Cash Flows). Additionally, as the term of transition bond issued exceeds the 6-8 years historically seen, technology driven customer migration increases significantly and begins to impact usage from commercial and small business customers.

Unanticipated weather conditions. Seasonal weather fluctuations are studied, and typically accounted for in setting the tariff charge.

Forecast error negatively impacts liquidity on the bonds and may "push out" the maturity of the bonds by requiring additional true-ups before the bonds can be paid out. To capture this risk, historical forecasting error is stressed at a certain multiple depending on the rating sought.

Where the tariff is recoverable from large industrial and commercial customers, Standard & Poor's will require data stratifying these customers by revenues generated. The cash flows will be additionally stressed to account for a potential loss in revenues caused by relocation of those customers with a high concentration risk in revenue generation for the utility.

Certain states have legislated rate caps on either the transaction charge for specific customer classes or on the total customer charge (i.e. through mandated rate reductions). Standard & Poor's will review the cash flow models to confirm that these rate caps are respected in stress scenarios.

Higher-Than-Expected Charge-Off Experience Like other forecasting variables, anticipated charge-offs are included in forecasting for purposes of setting the tariffs. Charge-offs may be higher than expected based on historical experience due to a variety of factors, including economic changes and unforeseen disasters. To account for this risk, charge-off history is stressed by the multiple relevant to the rating sought.

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Commingling by Aggregators The recent mandated unbundling of generation, transmission, and distribution charges has paved the way for alternative generation suppliers. The consumer may choose to purchase its generation services from an alternative supplier, while continuing to pay transmission and distribution (wires charge) to the utility. As discussed earlier, the tariff would be included in the wires charge, so that collection of the tariff itself would not be endangered by the existence of competition for generation services. However, commingling risk could exist as a result of potential billing arrangements for the utility's transmission and distribution services on the one hand, and the alternative energy provider's generation services on the other.

Generally, alternative energy service providers (retail electric providers; third-party servicers) may provide a consolidated bill for their generation services and the tariff owed to the utility. Where this is the case, the energy services provider is liable to pay the tariff regardless of whether it has received collections from the ultimate users. As a result, the securitization is exposed to commingling risk, and the resulting loss of commingled tariffs, in the event of the bankruptcy of an energy services provider.

This risk can be mitigated by certain restrictions on the length of time that an energy services provider may commingle funds before consolidated billing and service is terminated. If the energy services provider becomes delinquent, direct and consolidated billing may cease and service and separate billing to the end-user customer would be made up for the tariff. This means that the aggregator could commingle funds for a number of days before consolidated billing were terminated. To address this risk, Standard & Poor's stressed cash flow runs eliminate one month of collections per year at the utility's peak billing cycle.

This or other risks involving alternative energy providers may exist in other stranded cost securitizations. Standard & Poor's will assess these risks and the resulting necessary cash flow stresses on a case-by-case basis.

Estimate of Tariff Based on Collections Curve Generally, utilities are unable to allocate amounts received to various charges on the bill, so they were unable to calculate what percentage of collections constituted tariff collections. To address this problem, the utilities prepared forecasts of the percentages of amounts expected to be received during each of the following six months. These forecasts were based on collections curves developed periodically based on accounting studies and collections studies performed by the companies. For each monthly billing period, collections were estimated over six months based on the collections curve.

When the actual tariff remittances by customers are calculated (on the seventh month following each monthly billing period), either too much or too little may have been paid for that billing period. If the amount remitted has been less than the actual tariffs collected during that six-month period, the shortfall will be made up the following month out of the servicer's (the utility's) own funds. Thus, if the servicer is bankrupt (Standard & Poor's assumption), there is a risk the bondholders will lose that portion of the tariff. If the actual tariff amount has been less than the estimated tariff collections remitted to the trust, the servicer would be entitled to withhold the excess amount paid from the next month's remittances.

It is not clear whether this risk will be present in other securitizations. To date, the risk of lower-than-actual remittances has not been separately stressed in the cash flow runs. The one month of lost collections (see Commingling by Aggregators) has been sufficient to cover this risk. Standard & Poor's also has relied on data provided by the company showing relative lack of volatility in the collections curve.

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Higher Tariff An increase in tariff resulting from higher true-ups might become burdensome to consumers. This risk might have a spiraling effect, because greater charge-offs or customer migration or decreased usage might result, which in turn would result in the need for increased true-ups. Standard & Poor's will assess this risk by examining the highest per kWh tariff charge reached under the relevant stress scenarios. This risk increases as the term of the transaction increases to 10-15 years given greater technological/migration risk.

Cash Flows Two cash flow runs are generally required in rating stranded costs: a compounding forecast error run and an oscillating forecast error run, implementing the stress scenarios described below. These runs are created to test liquidity as well as the transaction's ability to meet the final maturity of each class of bonds in the transaction. They do so by creating scenarios where the true-up in the tariff amount (the reset of the tariff to reflect prior experience with actual collections and recover prior shortfalls in collections) continuously fails to reflect actual collections.

Compounding Forecast Error Run The compounding forecast error run assumes a compounding stressed error in forecasting resulting in a continual decline in actual tariff collections over what was forecast for that year. Assume, for example, that during year one, sales are 90% of the original sales forecast, that is, forecast error reflecting a multiple of the average forecast error for the customer class, where actual collections are less than expected collections.

At the end of year one, the tariff charge is recalculated assuming that year two customer sales will be what was experienced in year one, that is, 90% of the original expected forecast. Instead, year two sales are only 81% (90% of 90%) of the original sales forecast.

The sales decline is generally based on a multiple of the absolute value of the largest historical non-weather-normalized forecast variance by customer class. This compounding is assumed to continue from year to year over the life of the transaction.

Oscillating Forecast Error Run The oscillating forecast error run assumes a scenario where in one-year tariff collections exceed expectations, so that in the following year, the tariff is reset based on the prior year, only to experience a shortfall in actual collections. Assume for example that the appropriate stressed forecast error is 10%. During year one, sales are 90% (10% below) the original sales forecast. At the end of year one, the tariff is recalculated assuming that year two sales are also 90% of the original forecast. Instead, year two sales are 99% (110% of 90% level) of the original forecast. The tariff for the following year is reset assuming 99% of original forecast collections, only to receive 90% of originally forecast collections. This oscillation between 90% and 99% of original forecast is assumed to continue over the life of the transaction.

Legal Final Maturity The legal final maturity dates on stranded cost transactions are often set at up to two years beyond expected maturities. This additional period acknowledges the long-term nature of the liabilities being rated, and the corresponding possibility that fundamental changes in technology might take place that further stress the transaction in an unforeseen manner. One currently known possibility is that over time customers may increasingly switch to self-generation, which would enable them to cease paying the wires charge and thus, the tariff. Certain transactions have reduced this period by requiring more frequent (e.g. monthly) true-ups during the final year or two of the transaction.

Legal Risks

Reliance on Commission to Implement True-Up, and Potential Delay in Approving the True-Up Standard & Poor's believes that so long as the statute clearly specifies the maximum period before which the commission is compelled to implement the true-up, any shortfall in collections resulting from the delay can be sized and factored into the cash flow projections. Certain structures may permit the application of principal collections as liquidity for any interest payments due to noteholders during any true-up delay. In the absence of such features, adequate provision for liquidity and additional credit support should be demonstrated to Standard & Poor's.

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Adequate Provision Law permits alteration or limitation of right to transition property and right to collect tariffs if "adequate provision" is made to the bondholders. Although there has been no conclusive demonstration as to what constitutes "adequate provision," and how such alteration or limitation would affect timely interest and principal payments on the bonds, Standard & Poor's, in rated transactions, has received legal assurances that any such alteration would be constitutionally prohibited were it substantially to impair the security for the bonds. While such assurances do not really define adequate provision, Standard & Poor's believes, in practice, that adequate provision should prove to be the functional equivalent of the pledged transition property.

Stranded Assets to Aid Industry Restructuring

Securitization of stranded assets provides an efficient method electric utilities can use to quickly free themselves from the high cost of stranded assets that prevents them from becoming players in the emerging competitive retail generation market. At the same time, the statutory true-up mechanism provides strong credit support that has withstood 'AAA' stress criteria applied by Standard & Poor's.

Related Criteria

- Post-Default Ratings Methodology: When Does S&P Global Ratings Raise A Rating From 'D' Or 'SD'?, March 23, 2015
- U.S. Public Finance: Electric And Gas Utility Ratings, Dec. 16, 2014
- Methodology: Timeliness of Payments: Grace Periods, Guarantees, And Use of 'D' And 'SD' Ratings, Oct. 24, 2013
- Global Framework For Assessing Operational Risk In Structured Finance Transactions, Oct. 9, 2014
- Counterparty Risk Framework Methodology And Assumptions, June 25, 2013
- Criteria For Assigning 'CCC+', 'CCC', 'CCC-', And 'CC' Ratings, Oct. 1, 2012
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Version 3

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A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

A proposal to create Legislation.

Ontario's Fair Hydro Plan Act, 2017, if enacted

EXPLANATORY NOTE TO BE ADDED BY LEGISLATIVE COUNSEL
TO ANY FINAL BILL PRIOR TO INTRODUCTION.

[Insert explanatory note.]

[Notes re this draft:
- all numbering of provisions may need to be re-done
- will need to check all definitions to ensure (1) that they are needed; and (2) that they work properly wherever the term is used in the Bill.
- additional consequential amendments likely required still
- overall organization of provisions still TBC (for now just trying to get all of the elements drafted and will reconsider architecture later)
- need to check consistency of various phrases (e.g. *during/for/in respect of* reference period; *owner of RA/IA vs. RA/IA owner; etc.)*]

Preamble

The Government of Ontario is committed to fostering the development of a clean, modern and reliable electricity system with a diverse supply mix. The Government is also committed to removing barriers to and promoting opportunities for renewable and clean energy projects.[1]

The Government of Ontario has established a regulatory framework related to the generation and sale of electricity, which has promoted and continues to promote significant investment to enable phasing out of coal fired generation, modernizing sites and facilities in the Province for the generation of electrical energy and the production therefrom,[2] and conservation and demand management.

The Government of Ontario is committed to ensuring that the costs of these investments, and the raising of money to fund the investments,[3] are allocated fairly among present and future generations of consumers.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

[1] Note: please see the preamble of the *Green Energy Act, 2009.*
[2] Note: please see clause 92A (4) (b) of the Constitution, 1867: "des emplacements et des installations de la province destinés à la production d'énergie électrique, ainsi que de cette production meme".
[3] Note: please see opening flush of s. 92A (4) of the Constitution Act, 1867

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CONTENTS

PART I
GENERAL

1. Interpretation
2. Effect of invalidity, etc.
3. Purpose
4. Crown bound
5. Protection and assurances

PART II
FAIR ADJUSTMENT

6. Fair adjustment, May 1, 2017 to April 30, 2018
7. Fair adjustment, May 1, 2018 to April 30, 2022

PART III
CLEAN ENERGY ADJUSTMENT

8. Specified consumers to pay clean energy adjustment
9. Irrevocability of clean energy adjustment
10. Determination of clean energy adjustment
11. IESO to issue remittance notice to electricity vendors
12. Electricity vendor to invoice specified consumers

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

13. Appointment
14. Duties and powers

FAIR ALLOCATION AMOUNT

15. Financial Services Manager to calculate fair allocation amount

FINANCING PLAN

16. Financial Services Manager to prepare Financing Plan
17. Implementation of Financing Plan

PART V
THE REGULATORY ASSET

18. Interpretation, portion of regulatory asset
19. Variance account
20. IESO funding shortfall
21. Regulatory asset established
22. Transfer of regulatory asset
23. Validity of transfer

PART VI
THE INVESTMENT ASSET

24. Interpretation, investment asset
25. Investment asset established
26. Transfer of investment interest
27. Validity of transfer
28. Investment asset owner may grant security interest

PART VI
MISCELLANEOUS

29. Appointment of agent, invoicing or collection
30. Not Crown agent
31. Sequestration
32. Choice of law
33. Conflict
34. No further approvals, etc.
35. Immunity
36. References in marketing materials and offering documents
37. Non-application, Financial Administration Act, s. 28
38. Regulations

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

PART VII
COMMENCEMENT AND SHORT TITLE

103. Commencement
104. Short title

Confidential Draft

Schedule 1 Estimated finance amount

PART I
GENERAL

Interpretation
Definitions

1xx. (1) In this Act,

"Board" means the Ontario Energy Board; ("French")

"clean energy adjustment" means the amount determined under section 10xx; ("French")
[Note - will need to check throughout the draft that references to CEA are clear as to whether it's the total CEA in respect of a reference period vs. the portion payable by a specified consumer.]

"clean energy benefits" means, in respect of a reference period, the value of the benefits determined to be derived by the specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected future incurrences of clean energy costs; ("French")

"clean energy costs" means, in respect of a reference period, the value of the costs allocated to specified consumers during the reference period as a result of the clean energy initiative, including as a result of past, present and expected costs incurred in respect of,

(a) the estimated costs to be incurred by the IESO under section 25.33 of the *Electricity Act, 1998* or any provision that is the successor to that provision, which relate to contracts for,

(i) renewable energy generation or capacity,

(ii) conservation and demand management, including storage,

(iii) energy efficiency,

(iv) 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, or

(v) payments made or expected to be made under section 78.5 of the *Ontario Energy Board Act, 1998*, and

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(b) such other estimated costs as may be prescribed; ("French")

"clean energy initiative" means the policies of the Government of Ontario related to,

(a) fostering the growth of and investment in clean and renewable energy sources and technologies,

(b) removing barriers to and promoting opportunities for clean and renewable energy sources and technologies, and

(c) promoting conservation and demand management; ("French")

"electricity vendor"[4] means the IESO, a licensed distributor, a licensed retailer or such other person as may be prescribed; ("French")

"fair adjustment" means the determination of the rate payable for electricity in accordance with Part II; ("French")

"Financial Services Manager" means Ontario Power Generation Inc. [or such other person or entity as may be appointed as the Financial Services Manager by the Minister under section **]; ("French")

"Financing Plan" means the plan prepared under section X, as amended from time to time in accordance with this Act; ("French")

"funding obligation" means a payment obligation incurred by or on behalf of the regulatory asset owner or an investment asset owner under section x; ("French")

"IESO" means the Independent Electricity System Operator continued under Part II of the *Electricity Act, 1998*; ("SIERE")

"IESO funding shortfall" means, in respect of a reference period, the amount determined under section 20xx for the reference period; ("French")

"investment asset" means the investment asset created as described in section 22xx; ("French")

"investment asset owner" means a financing entity that acquires an investment interest in the investment asset; ("French")

[4] Note - this is similar to the definition of "electricity vendor" in the Ontario Rebate for Electricity Consumers Act, 2016

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"investment interest" means an ownership interest in the investment asset, which entitles an investment asset owner to the rights and benefits specified in the agreement under which the ownership interest is transferred;

"invoice amount" means the amount, determined in accordance with subsections (2.1) and (2.2) and the regulations, that is payable by a specified consumer for the provision of electricity in Ontario during a period of time specified on an invoice issued by an electricity vendor; ("French")

"licensed distributor" means a person licensed under Part V of the *Ontario Energy Board Act, 1998* to own or operate a distribution system; ("French")

"licensed retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity; ("French")

"Minister" means the Minister of Energy or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; ("ministre")

"prescribed" means prescribed by the regulations; ("prescrit")

"reference period" means,

(a) the period beginning on May 1, 2017 and ending on October 31, 2017,

(b) every six-month period following the period mentioned in clause (a) or such shorter period as may be set out in the Fair Allocation Plan; ("French")

"refinancing" means a repayment or repurchase of a funding obligation for cancellation by or on behalf of an investment asset owner by applying the net proceeds obtained by the owner incurring one or more other funding obligations; ("French")

"regulation" means a regulation made under this Act; ("règlement")

"regulatory asset" means the right established under section X to recover the IESO funding shortfall; ("French")

"representative consumer" means a consumer who meets the criteria set out in subsection (3); ("French")

"specified consumer" means,

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(a) a person who has an account with an electricity vendor for the supply of electricity, receives an invoice in respect of the account and meets the criteria set out in subsection (2); or

(b) such other person as may be prescribed; ("French")

"Toronto Hydro" means Toronto Hydro-Electric System Limited; ("French")

"transfer" means an assignment, conveyance, disposition or sale; ("French")

Specified consumers

(2) For the purposes of clause (a) of the definition of "specified consumer" in subsection (1), the person must meet any one of the following criteria:

1. The person has a demand for electricity of 50 kilowatts or less, or such other amount as may be prescribed.

2. The person annually uses not more than 250,000 kilowatt hours of electricity, or such other amount as may be prescribed.

3. 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 the has had the obligation to file a farming business registration form waived pursuant to an order made under subsection 22 (6) of that Act.

4. The person's account with the electricity vendor relates to,

    i. a dwelling,

    ii. a property within the meaning of the *Condominium Act, 1998*,

    iii. 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

    iv. a property that includes one or more housing units and that is owned or leased by a co-operative within the meaning of the *Co-operative Corporations Act*.

5. The person satisfies such criteria as may be prescribed.

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Invoice amount

(2.1) Subject to subsection (2.2) and the regulations, the invoice amount for a specified consumer includes the following amounts:

1. In circumstances where the electricity is provided by a licensed distributor or a licensed retailer, the following:

    i. The commodity price of the electricity used during the invoice period.

    ii. The rates and charges set out in the applicable rate order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*.

    iii. Any adjustment on the invoice required under section 25.33 of the *Electricity Act, 1998*.

    iv. The amount of any harmonized sales tax payable [by the consumer?] under Part IX of the *Excise Tax Act* (Canada);

    v. Any other amounts as may be prescribed.

2. In circumstances where the electricity is provided by the IESO, such amounts as may be prescribed. ("French")

Same, exclusions

(2.2) Except as otherwise prescribed by the regulations, the invoice amount does not include any of the following amounts:

1. The balance of any amounts carried forward from previous invoices.

2. Penalties or interest.

3. Charges that do not relate to the use of electricity.

4. Any of the following charges that may be set out in an order issued by the Board under subsection 78 (3) of the *Ontario Energy Board Act, 1998*:

    i. A fixed monthly service charge payable by a generation facility within the meaning of section 56 of the *Ontario Energy Board Act, 1998* and classified as "microFIT".

    ii. A charge labelled as a "specific service charge" or "retail service charge".

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iii. A rate rider.

5. Any other prescribed amounts.

Representative consumer

(3) For the purposes of the definition of "representative consumer" in subsection (1), the consumer,

(a) purchases electricity directly from Toronto Hydro;

(b) has an account with Toronto Hydro that falls within a residential-rate classification as specified in a rate order made by the Board under section 78 of the *Ontario Energy Board Act, 1998*;

(c) is invoiced by Toronto Hydro on a monthly basis;

(d) is not invoiced by Toronto Hydro for electricity on an equal monthly payment plan or an equal billing plan; and

(e) uses, on average, 750 kilowatt hours of electricity each month.

Transfer

(4) For greater certainty, a transfer of the regulatory asset or a portion of the regulatory asset includes any act of the IESO by which the IESO purports to dispose of its interest in the regulatory asset with the result of a named person becoming the owner of an investment interest.

Effect of invalidity, etc.[5]

2xx. (1) For greater certainty, all of the provisions of this Act remain in full force and effect, even if some provisions are held to be invalid, the intention of the Legislature being to give separate and independent effect to the extent of its powers to every provision contained in this Act.

Same, funding obligation

(2) The fact that any provision of this Act is held to be invalid or ceases to be in effect for any reason does not affect a funding obligation that was incurred under this Act before the day that the provision was held to be invalid or ceased to be in effect.

Purpose

3xx. (1) The purposes of this Act are,[6]

[5] Note: this is from the *Climate Change Mitigation and Low-carbon Economy Act, 2016*

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(a) to ensure that clean energy costs are fairly allocated among specified consumers over time and that the process by which the Province raises money to fund the costs reflects the fair allocation; and

(b) to recognize that clean energy benefits that have accrued and that will accrue over time will continue to benefit present and future electricity consumers in the Province.

Crown bound

4xx. This Act binds the Crown.

Protection and assurances

Prohibition

5xx. (1) The Crown shall not do anything that would,

(a) hinder, delay, impair or prejudice the charging, collection or remittance of the clean energy adjustment;

(b) except as expressly permitted by this Act, reduce the amount of the clean energy adjustment or lower the priority of the clean energy adjustment over other debts; or

(c) adversely affect an investment asset or a funding obligation.

Clarification with respect to regulations

(2) For greater certainty, the things prohibited under subsection (1) include the making or approving of a regulation under this Act.

Agreements for compensation

(3) The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements on behalf of the Province of Ontario with any person in respect of this Act, including agreements regarding financial commitments, financial arrangements, indemnities or similar transactions.

PART II
FAIR ADJUSTMENT

[6] Note: Please see the *Electricity Act, 1998* for much of the wording proposed in this section.

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Fair adjustment, May 1, 2017 to April 30, 2018
Definition

6xx. (1) In this section,

"average baseline invoice amount" means the average monthly invoice amount that would be payable by a representative consumer under the average baseline rate; ("French")

"average baseline rate" means the average rate that would be payable effective May 1, 2017 by the class of consumers prescribed by the regulations under the *Ontario Energy Board Act, 1998* for the purposes of subsection 79.16 (1) of that Act, as determined by the Board by applying the method prescribed by the regulations under clause 79.16 (1) (b) of that Act; ("French")

"sub-meter customer" means a person who is supplied electricity by a specified consumer, if an invoice for the electricity is issued to the person by the specified consumer, by an agent of the specified consumer or by a unit sub-meter provider providing unit sub-metering for the specified consumer; ("French")

Rate determination

(2) Subject to subsection (3), [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] the rate for electricity payable by a specified consumer for the period beginning on May 1, 2017 and ending on April 30, 2018 is the average rate that would be payable by a representative consumer in order for the representative consumer to receive a monthly invoice amount that is 25 per cent less than the average baseline invoice amount.

Sub-meter customers

(3) A specified consumer who provides electricity to a sub-meter customer and any unit sub-meter provider who provides unit sub-metering for the specified consumer shall ensure that the rate payable by each sub-meter customer is the rate determined under subsection (2).

Determining rate

(4) The rate mentioned in subsection (2) shall be,

(a) determined by the Board within seven business days after this section receives Royal Assent; and

(b) effective as of the first day of the calendar month immediately following the determination.

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Transition

(5) If, for technical or operational reasons, an electricity vendor, specified consumer or unit sub-meter provider is unable to adapt its invoices to comply with this section by the time it issues its first invoice for electricity consumed on or after May 1, 2017,

(a) the electricity vendor, specified consumer or unit sub-meter provider shall adapt its invoices as soon as possible and, in any event, no later than [August 1, 2017]; and

(b) the electricity vendor, specified consumer or unit sub-meter provider shall ensure that any specified consumer or sub-meter customer invoiced at a rate higher than the applicable rate receives the difference between the rate shown on their invoice and the applicable rate as a lump sum credit on the first invoice issued after the invoices have been adapted or by such other means as may be prescribed by the regulations.

Fair adjustment, May 1, 2018 to April 30, 2022

7xx. The Lieutenant Governor in Council may, [to more fairly measure and allocate the clean energy costs and clean energy benefits among present and future generations of specified consumers,] make regulations prescribing the rate for electricity payable by specified consumers and sub-meter customers during the period beginning on May 1, 2018 and ending on April 30, 2022.

PART III
CLEAN ENERGY ADJUSTMENT

Specified consumers to pay clean energy adjustment

8xx. (1) Upon receipt of an invoice that includes a clean energy adjustment, a specified consumer shall pay the clean energy adjustment to the electricity vendor, as agent of the investment asset owners, in accordance with such terms of payment as may be specified in the invoice, which may include terms relating to late payment fees and interest charges.

Same

(2) For greater certainty, subsection (1) applies regardless of,

(a) whether the clean energy adjustment is inconsistent with the fair allocation calculation applicable at the time when the payment is due; and

(b) whether the clean energy adjustment relates to funding obligations that were incurred in a manner that was inconsistent with the Financing Plan.

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Indebtedness of specified consumer

(4) An unpaid clean energy adjustment that is required to be paid by a specified consumer under this section constitutes indebtedness of the consumer to each investment asset owner in respect of each owner's respective interest in the investment asset.

Same

(5) The indebtedness mentioned in subsection (4) is a single and separate debt obligation owed by the specified consumer and may be enforced independently from any other payment obligation or indebtedness owing by the specified consumer under the invoice or otherwise.

Irrevocability of clean energy adjustment

9xx. (1) The amount of the clean energy adjustment shown on an invoice issued to a specified consumer under this Act is determinative of the amount of the consumer's indebtedness created by the adjustment and is irrevocable upon invoicing the consumer and may not be set off or by passed.

Exception

(2) Subsection (1) does not apply to the extent that there is a calculation error by the electricity vendor.

Determination of clean energy adjustment

10xx. (1) The clean energy adjustment payable by all specified consumers in respect of a reference period shall be determined as follows:

1. Calculate the estimated finance amount for the reference period in accordance with Schedule 1 and such additional rules as may be prescribed.

2. Add the true up amount for the reference period, as determined in accordance with the prescribed method, to the estimated finance amount calculated under paragraph 1.

True up amount

(2) For the purposes of paragraph 2 of subsection (1), the Lieutenant Governor in Council may make regulations prescribing the method for determining the true up amount, having regard to the following principles:

1. The true up amount should serve to ensure that the collection of the clean energy adjustment is sufficient to pay the estimated finance amount when it is due.

2. The method for determining the true up amount should take into account historical and reasonably foreseeable,

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i. differences between amounts billed and amounts collected due to various factors, including applicable taxes, consumer defaults and delays, billing lags and write-offs, and

ii. variations in billings due to variations in electricity consumption.

IESO to issue remittance notice to electricity vendors

11xx. (1) The IESO shall, in accordance with the regulations, issue a remittance notice to each electricity vendor for the electricity vendor's portion, as determined in accordance with the regulations, of the clean energy adjustment in respect of a reference period.

IESO to collect

(2) The IESO shall, as an agent of the investment asset owners, collect the clean energy adjustment from electricity vendors [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Collection account

(3) All of the following amounts received by the IESO shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be deposited promptly into an account established for the purposes of collecting those accounts:

1. Amounts described in subsection 12 (4).

2. Payments made by specified consumers directly to the IESO as electricity vendor under subsection 8 (1).

Same, held in trust

(4) All amounts received by the IESO in respect of the clean energy adjustment shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (6), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act.

IESO to remit

(5) The IESO shall remit amounts received by it in respect of the clean energy adjustment to or for the benefit of the investment asset owners in accordance with the regulations.

Collection of outstanding amounts, regulatory asset

(6) If the total clean energy adjustment payable by specified consumers in respect of a reference period is less than the amount contemplated to be payable under the

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applicable fair allocation calculation made by the Financial Services Manager under Part IV, the IESO may collect the difference from specified consumers.

Electricity vendor to invoice specified consumers

12xx. (1) The electricity vendor shall issue an invoice to each specified consumer for the consumer's amount of the clean energy adjustment in accordance with the regulations.

Electricity vendor to collect

(2) Each electricity vendor shall, as an agent of the IESO and the investment asset owners, collect the clean energy adjustment from specified consumers [in accordance with the monthly settlement process set out in the market rules made under section 32 of the *Electricity Act, 1998]*.

Pro rating of payments

(3) If an electricity vendor receives a payment made by or on behalf of a specified consumer in respect of amounts payable under one or more invoices and the amount paid is less than the total amount payable, the electricity vendor shall allocate the payment on a pro rata basis to the clean energy adjustment and other amounts payable under the relevant invoices in respect of electricity charges for the same invoice period.

Held in trust

(4) All of the following amounts received by an electricity vendor shall, until paid to or for the benefit of the investment asset owner in accordance with subsection (5), be held in trust for the investment asset owners or a secured party to whom a security interest in an investment interest is granted under this Act:

1. Payments received from or on behalf of specified consumers under subsection 8 (1).

2. Portions of payments received from or on behalf of specified consumers under subsection 8 (1) that are allocated to the clean energy adjustment under subsection (3).

3. Any proceeds arising from the exercise and enforcement of any rights and interests under or in respect of the investment asset.

Remittance to IESO

(5) Each electricity vendor other than the IESO shall remit amounts described in subsection (5) to the IESO for the benefit of the investment asset owners or secured parties in accordance with the regulations.

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Regulations

(6) If an electricity vendor fails, in the manner described in the regulations, to comply with the requirements of this section, the electricity vendor shall take such steps as the regulations may prescribe.

PART IV
IMPLEMENTATION

FINANCIAL SERVICES MANAGER

Appointment

13xx. (1) [Note: To be elaborated.]

Termination

(2) The Minister may by written order terminate the appointment of an appointee as the Financial Services Manager if,

(a) the Minister has advised the appointee that the Financing Plan is either inconsistent with or is being implemented in a manner that is inconsistent with the principles set out in section x;

(b) the appointee has been afforded a reasonable opportunity to consider and address the inconsistency; and

(c) the appointee is unwilling or unable to address the inconsistency to the satisfaction of the Minister.

Replacement

(3) Upon terminating an appointment, the Minister may, in accordance with the regulations, appoint a new person or entity as the Financial Services Manager.

Duties and powers

14xx. (1) The Financial Services Manager shall perform the duties assigned to it under this Act and may administer the investment asset on behalf of the investment asset owner.

Same

(2) The administration of the investment asset may include the following:

1. Providing information, in accordance with the regulations, to the Board in respect of funding obligations and the determination of the clean energy adjustment in accordance with section XX.

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2. Providing information to electricity vendors, including the IESO, in respect of obligations under Part III.

3. Such other matters as may be prescribed.

Review of costs

(3) The Board shall review the administrative costs of the Financial Services Manager in accordance with the regulations.

FAIR ALLOCATION AMOUNT

Financial Services Manager to calculate fair allocation amount

15xx. (1) The Financial Services Manager shall calculate the fair allocation amount for the purposes of,

(a) fairly measuring and allocating the estimated clean energy costs and estimated clean energy benefits among the specified consumers in respect of each reference period; and

(b) aligning funding obligations that may be incurred during each reference period with the allocation of the estimated clean energy costs and estimated clean energy benefits across present and future generations of specified consumers.

Amount

(1.1) The fair allocation amount in respect of a reference period is the sum of the following amounts:

1. The amount, if any, by which the estimated [clean energy costs] [clean energy benefits] to be allocated to specified consumers in respect of the reference period exceeds the estimated amount of [the global adjustment] that would be borne by the specified consumers in respect of clean energy costs [in the absence of this Act].

2. An allocable portion of the value of any fair adjustment, determined in accordance with subsection (3).

Principles

(2) In calculating the fair allocation amount [or in developing the fair allocation calculation?], subject to subsection (3), the Financial Services Manager shall have regard to the following principles:

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1. Clean energy costs allocated to the specified consumers in respect of a reference period should be allocated in proportion to the clean energy benefits attributed to the specified consumers in respect of the reference period.

2. The clean energy benefits attributed to the specified consumers in respect of a reference period should be determined based on *[Insert principles]*.

3. The fair allocation calculation should include reasonable assumptions regarding the following:

    i. The time value of money or the rate of inflation, for the purpose of equating nominal amounts over time.

    ii. The expected number of specified consumers for each reference period.

    iii. The expected electricity consumption rates for each reference period.

Allocation of fair adjustment

(3) If, before the Financial Services Manager has calculated the fair allocation amount in respect of a reference period, a fair adjustment has been made under Part II in respect of the reference period, the calculation shall include a portion of the value of the fair adjustment in the fair allocation calculation for each future reference period.

Amendments to the fair allocation calculation

(4) The Financial Services Manager may amend the fair allocation calculation from time to time, as the Financial Services Manager considers appropriate, having regard to the requirements of this Act.

Submission of fair allocation to Minister

(5) The Financial Services Manager shall provide to the Minister the fair allocation calculation and any amendments to the fair allocation calculation.

Effective date

(6) The fair allocation calculation or an amendment to the fair allocation calculation takes effect on the day that is 30 days after the fair allocation calculation or the amendment, as the case may be, is provided to the Minister in writing.

Publication

(7) The Minister shall ensure that the fair allocation calculation and any amendments to it are made available to the public in a manner that the Minister considers appropriate.

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FINANCING PLAN

Financial Services Manager to prepare Financing Plan

16xx. (1) The Financial Services Manager shall prepare and provide to the Minister a written plan entitled the Financing Plan to be used by the Financial Services Manager to evaluate whether potential funding obligations should be incurred or potential transfers should be made for the purposes of this Act.

Principles

(2) In preparing the Financing Plan, the Financial Services Manager shall have regard to the following principles:

1. Any incurrence of a funding obligation should reasonably align the expected finance amount determined under Schedule 1 that would become due and payable during a reference period with the fair allocation amount determined for the reference period under this Part as of the time of the incurrence, in each case after reducing the fair allocation calculation by the amount of any fair adjustment for the reference period.

2. Incurrences and transfers should be implemented in a manner that, as the Financial Services Manager considers to be reasonable, is cost effective and reflects prevailing market terms and conditions.

3. Reasonable assumptions should be made regarding such matters as may be prescribed.

[Note for reference: List of items for consideration in regulation: (a) anticipated IESO funding shortfalls and related transfer amounts; (b) the maturities of funding obligations; (c) the availability of refinancings, redemption opportunities and liquidity terms and conditions in order to achieve the objective contemplated in section X(1)(a); (d) the availability of currency and interest rate hedging facilities for the purpose of mitigating any differences between the expected finance amounts becoming due and payable during a reference period and the fair allocation amount for the reference period; (d) the amount and potential variability of interest rates and related financing costs; (e) available capital markets in which funding obligations may be incurred.]

Amendments to approved plan

(3) The Financial Services Manager may amend the Financing Plan at any time, without the approval of the Minister, subject to the requirements set out in this section.

Limitation, first five year period

(4) In respect of each reference period from May 1, 2017 to April 30, 2022, no funding obligation shall be incurred that would become payable during the reference period and result in a clean energy adjustment for the reference period unless,

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(a) no fair adjustment has been made under Part II in respect of the reference period; or

(b) if a fair adjustment has been made under Part II in respect of the reference period, the funding obligations incurred would not be payable during the reference period in an amount that exceeds the [difference between the fair allocation amount for the reference period and the amount of the fair adjustment for the reference period].

Confidentiality of plan

(4) The Financing Plan is deemed to be a record subject to section 17 of the *Freedom of Information and Protection of Privacy Act.*

Implementation of Financing Plan

17xx. (1) The Financial Services Manager shall incur funding obligations and make transfers in material conformity with the applicable Financing Plan.

Same

(2) For greater certainty, section [paramountcy of funding obligations] applies despite the failure of the Financial Services Manager to comply with subsection (1).

Financing entities

(3) In accordance with the Financing Plan, the Financial Services Manager may establish one or more financing entities that may incur funding obligations and make transfers.

Prohibition

(3) The Financial Services Manager shall not provide for funding obligations to be incurred with any recourse to any assets of an electricity vendor, the Board, the Province or the Lieutenant Governor in Council, except to the extent that any of these persons or entities may be liable to perform obligations or duties arising under this Act or under the express terms of a funding obligation.

Effect of amendment to Fair Allocation Plan

(4) No funding obligation incurred and no transfer made by the Financial Services Manager shall be affected by any inconsistency with the Financing Plan, including any inconsistency with the principles set out in section X.

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PART V
THE REGULATORY ASSET

Interpretation, portion of regulatory asset

18xx. If a transfer under this Part provides for the transfer of a portion of the regulatory asset, any references in this Part to the regulatory asset are deemed to be references to the portion of the regulatory asset transferred.

[Note: This is meant to assist with clarity in the subsequent provisions.]

Variance account

19xx. (1) The Board shall issue an accounting order to authorize the IESO to do the following:

1. Create a variance account for the purposes of this Act.

2. Record the IESO funding shortfall in the variance account from time to time.

3. Recover the IESO funding shortfall in accordance with section X and the regulations.

No hearing

(2) The order of the Board shall be made in writing and without holding a hearing.

No appeals, etc.

(3) No appeal lies from the order of the Board.

IESO funding shortfall

20xx. (1) The IESO shall determine the IESO funding shortfall for each month in the following manner:

1. Calculate the sum of all invoice amounts issued to specified consumers for the month if Part II of this Act did not apply.

2. Calculate the sum of all invoice amounts issued to specified consumers for the month.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1, and make any other adjustments as may be prescribed.

Same

(2) To the extent that the IESO funding shortfall for any month is based on an estimate of the electricity used by specified consumers, the IESO shall record an

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adjustment in the variance account in the following month to reflect the difference between the estimate and the electricity actually used by specified consumers.

Recording of IESO funding shortfall

(3) IESO shall record the IESO funding shortfall from time to time, including adjustments resulting from the exercise of the right of recovery under section 21 and any transfer under section 22, in the variance account.

Recording determinative

(4) A recording of the IESO funding shortfall in the variance account is determinative of the amount of IESO funding shortfall at the time of the recording.

Regulatory asset established

21xx. (1) The IESO has the right, exercisable in accordance with this Act and the regulations, to recover the IESO funding shortfall.

Same, restrictions

(2) The IESO's right to recover the IESO funding shortfall under subsection (1) is subject to the following:

1. The IESO shall not be entitled to collect the IESO funding shortfall from specified consumers before May 1, 2022.

2. The process by which the IESO may recover the IESO funding shortfall shall be established by the Board, having regard to the amount of the IESO funding shortfall from time to time and the [fair allocation calculation].

3. Such other restrictions as may be prescribed.

Transfer of regulatory asset

22xx. (1) The IESO may transfer all or a portion of the regulatory asset to any financing entity under the Financing Plan, which transfer creates the investment asset.

Same

(2) Upon receipt of any payment in consideration for the transfer,

(a) the IESO shall record the payment as a reduction of the IESO funding shortfall in the variance account; and

(b) unless otherwise provided for in this Act, the IESO shall have no further right, title or interest in, or any obligations in respect of, the regulatory asset or in the investment asset created by the transfer.

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Same

(3) Upon transfer, the financing entity becomes an investment asset owner and acquires an investment interest.

Validity of transfer

23xx. (1) A transfer of a regulatory asset under this Act is a valid and enforceable sale and absolute transfer to the investment asset owner of the regulatory asset, and the investment asset created by the transfer shall be immediately vested in the transferee.

Same

(2) Without limiting subsection (1), any transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of IESO's right to recover the IESO funding shortfall, and not merely as a security interest, and upon the absolute transfer the transferor shall retain no right, title or interest in the regulatory asset, including all rights to recover the IESO funding shortfall.

Deemed perfection, etc.

(3) At the time a transfer of a regulatory asset is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer

(4) Subsection (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.

PART VI
THE INVESTMENT ASSET

Interpretation, investment asset

24xx. If a transfer under this Part provides for the transfer of an investment asset, any references in this Part to the investment interest are deemed to be references to the specific investment interest transferred.

Investment asset established

25xx. (1) The investment asset constitutes a current and irrevocable property right and interest consisting, collectively, of the following rights and interests without duplication:

1. The right to impose, bill, invoice, collect and receive the clean energy adjustment from specified consumers, including the right to determine the amount of the clean energy adjustment in accordance with this Act.

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2. The right to receive and collect all amounts in respect of the clean energy adjustment that are imposed, billed and invoiced under this Act, including any amounts that all amounts in respect of the clean energy adjustment that are held by electricity vendors or other prescribed parties.

3. All rights and entitlements under such accounts as may be prescribed by regulation and all amounts on deposit in such accounts.

4. The right to enforce the duties and obligations under this Act of each electricity vendor to impose, attribute, charge, bill and invoice the clean energy adjustment.

5. The right to enforce the duties and obligations under this Act of each electricity vendor 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 an electricity vendor to recover payment of the clean energy adjustment.

6. All rights of any kind (whether in tort, contract or otherwise) that attach or are attendant or incidental to any of the other property rights or interests that comprise the regulatory asset owner's regulatory asset.

7. All revenue, collections, claims, payments, money and proceeds of or derived from the rights described in paragraphs 1 to 6, regardless of whether such revenue, collections, claims, payments and proceeds are imposed, invoiced, collected and maintained together with or commingled with other revenue, collections, claims, payments, money and proceeds.

No set off, etc.

(2) The investment asset shall not be set off or reduced by any person in any circumstance, including,

(a) by a consumer, an electricity vendor, an agent of the investment asset owner or an owner of distribution system assets in the Province;

(b) in connection with any default, bankruptcy, reorganization or other insolvency proceeding of a person mentioned in clause (a); or

(c) by any affiliate or successor of a person mentioned in clause (a).

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Exercise of rights

(3) The rights of the investment asset owner to collect and enforce its rights and interests in, to and in respect of the investment asset against a specified consumer shall be exercised in accordance with section [xx] of the *Personal Property Security Act*.

Collective action required

(4) If the investment asset owner owns a right or interest in the investment asset that comprises less than the entire property right and interest constituted by the investment asset, the right or interest shall only be enforced by the investment asset owner collectively and in coordination with all other investment asset owners, and any agreement among that collective in furtherance of the collective action shall be valid and binding on the investment asset owner as a collective in accordance with its terms. [Note: Successors may need to be addressed here.]

Transfer of investment interest

26xx. An investment asset owner may transfer all or a portion of its rights and interests in an investment interest to any other investment asset owner, including by way of a transfer of a divided or an undivided interest, in accordance with the Financing Plan.

Validity of transfer

27xx. (1) A transfer of an investment interest under this Act is a valid and enforceable sale and absolute transfer of the investment interest and confers upon the owner of the investment interest acquired a valid property right and interest in, to and under the applicable investment interest in accordance with the terms of the transfer.

Same

(2) Without limiting subsection (1), a transfer that by its terms is intended to constitute a sale or absolute transfer shall be treated for all purposes as an absolute transfer of an investment asset owner's right, title and interest in, to and under an investment interest, and not merely as a security interest, and upon such absolute transfer the transferor shall retain no right, title or interest in the investment interest, subject to the transfer, including all rights to the investment interest arising after the transfer.

Deemed perfection, etc.

(3) At the time a transfer of an investment interest is made, the transfer shall be deemed to have been and shall be perfected, vested, valid and binding as against the transferor and all other persons who have claims of any kind against the transferor.

Priority of transfer, assignment, etc.

(4) Subsection (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 investment asset owner shall have priority over any liens in favour of such other persons.

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Investment asset owner may grant security interest

28xx. (1) An investment asset owner may grant a security interest over all or a specified portion of its right, title and interest in, to and under the investment interest to or in favour of any person to secure a funding obligation.

Validity

(2) A security interest granted under this Act shall be valid and enforceable in accordance with its terms.

Perfection and priority of security interests

(3) All provisions of the *Personal Property Security Act* shall apply to the investment asset and each investment interest on the basis that it is intangible personal property, except as otherwise provided for in this section, and any granting of a security interest by the owner of an investment interest to secure a funding obligation shall, subject to the terms of the funding obligation, give rise to a security interest in respect of which that Act applies and may be perfected by filing a financing statement under that Act on that basis.

Proceeds

(4) All proceeds of an investment interest that are subject to the security interest and that are received by the applicable investment asset owner shall immediately be subject to the security interest and shall be perfected without any physical delivery of the proceeds, registration of any financing statement or any further act.

Perfection

(5) The security interest shall be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to the property rights and interests in the investment interest subject to the security interest, subject to the written consent of the person to whom the security interest has been granted.

Same

(6) The person to whom the security interest has been granted shall have a perfected security interest in revenues or other proceeds that are deposited in any [investment asset account] or other account of any electricity vendor, the IESO, an agent of an electricity vendor or the IESO or other person who may have commingled such revenues or other proceeds with other funds.

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PART VI
MISCELLANEOUS

Appointment of agent, invoicing or collection

29xx. If a prescribed circumstance applies, the Lieutenant Governor in Council may by regulation appoint a person to carry out some or all of the obligations of an electricity vendor under this Act in the place of an electricity vendor with respect to invoicing or collection.

Not Crown agent

30xx. For greater certainty, no agent appointed under this Act is an agent of the Crown for any purpose, despite the *Crown Agency Act*.

Sequestration

31xx. (1) A court in the Province may, upon application by an investment asset owner or a secured party, order the sequestration and payment of the clean energy adjustment, collections and remittances, as applicable, for the benefit of the investment asset owner or secured party by any person or entity authorized to collect the clean energy adjustment, defaults on any required remittance of the clean energy adjustment, collections or remittances.

Same

(2) An order under subsection (1) does not limit any other remedies available to the applicant.

Same

(3) An order under subsection (1) shall remain in full force and effect despite any bankruptcy, reorganization or other insolvency proceedings with respect to the person or entity who is subject to the order.

Choice of law

32xx. The law governing, as applicable, the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right or creation of a security interest in the regulatory asset, the investment asset, the clean energy adjustment or the undertaking of the Crown under section x shall be the laws of the Province.

Conflict

33xx. The provisions of this Act and the regulations apply despite any provision of any other Act regarding the attachment, assignment or perfection, or the effect of perfection or priority of any transfer or security interest.

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No further approvals, etc.

34xx. Despite any requirement under any Act, no approvals, notices or authorizations other than those specified in this Act are required with respect to the actions to be taken in compliance with this Act, including actions to be taken under the Financing Plan or in relation to the establishment of the Fair Allocation Plan.

Immunity

35xx. (1) No action or other proceeding for damages shall be instituted against any employee of the Province, IESO, OPG or OEB for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any duty or authority under this Act.

Same

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

References in marketing materials and offering documents

36xx. No person shall include, in marketing materials or offering documents relating to the financing of funding obligations, references to any rights, obligations, guarantees or undertakings arising under this section unless the prescribed requirements, if any, are satisfied.

Non-application, Financial Administration Act, s. 28[7]

37xx. Section 28 of the *Financial Administration Act* does not apply with respect to any transaction or agreement or undertaking required, permitted, contemplated or authorized, directly or indirectly, under this Act.

Regulations

38xx. The Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act….

(b) prescribing types of payment obligations that constitute funding obligations;

(a) governing the calculation [true-up amount] and how the amount is to be applied to the clean energy adjustment.

(b) governing the inclusion of adjustments under this Act on invoices, which may include requiring notice to be provided by electricity vendors to specified persons regarding the adjustments.

[7] Note - see s. 51 of the Electricity Act, 1998

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[Note: reg-making powers to be dealt with in subsequent draft]

PART VII
AMENDMENTS TO OTHER ACTS

ELECTRICITY ACT, 1998

200x. (1) Subsection 6 (1) of the *Electricity Act, 1998* would be amended by adding the following clauses:

(q.0.1) to exercise the powers and rights and to perform the duties and obligations assigned to it under the *Ontario Fair Hydro Plan Act, 2017* and to engage in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including,

(i) entering into agreements or arrangements with any person for the purposes of the *Ontario Fair Hydro Plan Act, 2017*;

(ii) engaging in activities related to making payments to and receiving payments as contemplated under the *Ontario Fair Hydro Plan Act, 2017* and to engage in related settlement activities;

(iii) engaging in activities related to the creation, transfer and administration of the regulatory asset created under the *Ontario Fair Hydro Plan Act, 2017*, which activities may include,

(iv) incurring liabilities in relation to the regulatory asset

(v) transferring the regulatory asset for consideration;

(vi) acting as a recovery agent under the *Ontario Fair Hydro Plan Act, 2017*;

201x. Section 53.1 of the Act would be amended by adding the following subsections:

Same, *Ontario Fair Hydro Plan Act, 2017*

53.1 (1.1) In addition to the objects mentioned in subsection (1), the objects of Ontario Power Generation Inc. include exercising the powers and rights and performing the duties and obligations assigned to it under that Act and engaging in activities to facilitate the implementation of the *Ontario Fair Hydro Plan Act, 2017*, including the following:

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1. Entering into contracts and undertakings on behalf of special purpose financing entities, including pre-formation contracts and undertakings and as principal in relation to matters permitted by the *Ontario Fair Hydro Plan Act, 2017* subject to the right of reimbursement from amounts available to the financing entity.

2. Preparing reports on behalf of the financing entity.

3. Enforcing the rights of the financing entity.

4. Signing offering documents as sponsor or otherwise on behalf of the financing entity.

5. Exercising the powers and performing the duties of the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*

6. Issuing non-equity securities in Ontario Power Generation Inc. or on if its subsidiaries, for the purpose of raising funds to acquire debt or equity interests in a financing entity whose activities are limited to the incurrence of funding obligations pursuant to the *Ontario Fair Hydro Plan Act, 2017*.

Subsidiaries, etc.

(1.2) Ontario Power Generation Inc. may create one or more subsidiaries, trusts or special purpose entities in order to more efficiently conduct its activities or achieve its objects.

202x. Section 89 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

203x. Section 90 of the Act would be amended by adding the following subsection:

Exception

(4) The requirement in subsection (1) to pay an amount to the Financial Corporation does not apply in respect of amounts payable to Ontario Power Generation Inc. or a subsidiary of Ontario Power Generation Inc. as a result of its functions as the Financial Services Manager under the *Ontario Fair Hydro Plan Act, 2017*.

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[Note: Drafting still to be added to the EA consequential amendments: ***All fees charged by OPG as the FSM shall be approved by the OEB before they are included in the calculation of clean energy adjustments.]***

AMENDMENTS TO ONTARIO ENERGY BOARD ACT, 1998

204x. Subsection 1 (1) of the *Ontario Energy Board Act, 1998* would be amended by adding the following paragraph:

6. To facilitate the implementation of the [TBD - language should link up with language from new Act.]

205x. Section 70 of the Act would be amended by adding the following subsection

[Note - still need to draft new subs. 70 (2.1)]

Short Title - this proposal for legislation would, if approved by the Legislature, have a short title to be determined by Government.

Timing – this proposal for legislation would, if approved by the Legislature, come into force on a date to be established by Government.

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SCHEDULE 1
ESTIMATED FINANCE AMOUNT

Estimated finance amount

1. The estimated finance amount for a reference period shall be determined by estimating, prior to the start of a reference period, the sum of the following:

1. The sum of all amounts that are payable during the reference period by or on behalf of the investment asset owners to satisfy an obligation to repay, redeem or repurchase, or to provide for the repayment, redemption or repurchase, of all or a portion of the amount advanced to the owners under a funding obligation, excluding any payment made by applying the proceeds of a refinancing.

2. The sum of all funding costs for the reference period, determined as follows:

    i. Calculate the aggregate of all interest, scheduled principal and other periodic finance charges accruing, due and becoming payable or paid by or on behalf of investment assets owners during the reference period in respect of all funding obligations, including such amounts as may be prescribed.

    ii. Calculate the sum of the aggregate of all amounts received by or on behalf of investment asset owners during the reference period in respect of all funding obligations and such other amounts as may be prescribed.

    iii. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

3. The sum of all amounts payable during the reference period by or on behalf of investment asset owners to redeem, prepay or repurchase a funding obligation, including any premium, make-whole or other amount becoming payable under a funding obligation to give effect to the redemption, prepayment or repurchase.

4. The balance of the finance reserve at the end of the reference period, as determined under section 3 to this Schedule.

5. The sum of any other amounts payable during the reference period by or on behalf of investment asset owners that were incurred or committed to directly or indirectly in connection with the incurrence of funding obligations under the Financing Plan during the reference period, which may include such amounts as may be prescribed.

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Funding costs

2. For the purposes of paragraph 2 of section 1 to this Schedule, the funding costs for a reference period are determined by taking the following steps:

Finance reserve balance

3. (1) For the purposes of paragraph 4 of section 1 to this Schedule, the balance of the finance reserve at the end of the reference period is determined by taking the following steps:

1. Calculate the sum of all amounts deposited by or on behalf of investment asset owners during the reference period in order to pre-fund, collateralize, over-collateralize or establish reserves for the ultimate payment of funding obligations or for related contingencies specified in the Financing Plan.

2. Calculate the sum of all amounts withdrawn by or on behalf of investment asset owners during the reference period from deposits previously made as described in paragraph 1.

3. Subtract the amount calculated under paragraph 2 from the amount calculated under paragraph 1.

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From: Hanslep, Malle (MOF) [Malle.Hanslep@ontario.ca]
To: Gadi Mayman [Gadi.Mayman@ofina.on.ca]; Anna Strathy [Anna.Strathy@ofina.on.ca]
CC: Michael Waterston (MOF) [Michael.Waterston@ontario.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]; Mike Manning [Mike.Manning@ofina.on.ca]
Subject: RE: Guarantee
Date: Friday, April 21, 2017 14:39:50

Thank you.

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:39 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

This is the guarantee that the Federal government gave to Newfoundland Hydro (Nalcor) for the Muskrat Falls debt issue.

From: Hanslep, Malle (MOF)

Sent: Friday, April 21, 2017 2:37 PM

To: Gadi Mayman; Anna Strathy

Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)

Subject: RE: Guarantee

Gadi: Also Carolyn mentioned a Nalcor guarantee which might be similar to what is being requested here?

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:36 PM
To: Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)

Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don’t’ know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We’re happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From: Gadi Mayman []
To: Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; Mike Manning [Mike.Manning@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]
CC: Anna Strathy [Anna.Strathy@ofina.on.ca]
Subject: Fw: Guarantee
Date: Friday, April 21, 2017 14:40:35
Attachment 1: Guarantees.docx

I don't think the original email I sent to you had this attachment.

Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 2:33 PM
To: Gadi Mayman; anna.strathy@ofina.ca
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but

it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don’t’ know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

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From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

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Michael

Michael Waterston
Legal Director
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There are two types of "guarantees" that we are looking for from the Province in relation to this program on the basis that any debt issued under the Fair Hydro Program will be AAA-rated. The following is based on the understanding that charges collected from prescribed consumers will be subject to a moratorium during the first 5 years of the program which results in interest and other on-going expenses of the financing entity not being recovered from ratepayers during this initial 5 year period.

The legislation must include a specific reference to the Province being required to provide a guarantee on debt repayment and servicing in certain circumstances.

The first is a "Springing Guarantee", which would be via a legal agreement put in place when establishing the program and would require the Province to step in and assume responsibility for paying all amounts that are or become due in respect of (i) any of the outstanding funding obligations; (ii) the operation and maintenance of the financing entity; and (iii) any other amounts due in relation to the program that have not yet been paid (collectively, the "Fair Hydro Program Costs"). This Springing Guarantee would kick in should any of the following happen:

(1) There is any change in the legislation or regulations that is, or could be, adverse to finance entity noteholders or the legislation is determined to be *ultra vires*. In this situation, the Springing Guarantee would require the immediate repayment of all Fair Hydro Program Costs (including any makewhole prepayment obligations).

(2) There is a market disruption (i.e. there is a period of time when capital markets term funding is not available to take out the warehouse facilities (bank facility or ABCP)). In this situation, either (i) we must have the ability to recover amounts relating to principal recoveries by invoicing and collecting clean energy adjustments, regardless of whether this is during the first 5 or 10 years of the program; or (ii) the Province must be responsible for the immediate repayment of those warehouse facilities. In respect of clause (2)(i), those clean energy adjustments could either be passed on to the ratepayers, or be funded by an incremental IESO shortfall or servicer advance (which in turn, could be funded by the Province).

The period of time that must lapse before this Springing Guarantee becomes applicable with respect to the warehouse facilities can be set to accommodate a short term dislocation in the term funding market (6-18 months). We would note that depending on the size of the warehouse facility, if there is no term takeout for an extended period of time, it is likely that the warehouse facilities will also quickly reach their credit limits and the province would likely have to fund any future shortfalls if they wished to continue the program.

To the extent that the Springing Guarantee does not require the Province to make the repayment contemplated under scenario (1), but simply requires the Province to repay the debt in accordance with its original repayment terms, this may adversely impact the rating of the Fair Hydro Program.

The second type of guarantee we are looking for from the Province is a performance guarantee. This is not a credit guarantee. The performance guarantee would require the Province to stand behind certain of the servicing obligations in the program. Typically, if there is a situation where a servicer does not perform all of the duties themselves, but delegates some of

their activities to a sub-servicer or agent, the servicer would retain responsibility for duties performed by those delegates. Our understanding is that IESO will only be acting as agent in this transaction, so this standard will not be in place with respect to IESO or the LDC's. To address this risk, we would be looking for a performance guarantee to be included as part of the documents for the program which would cover any of the servicing and collection activities, regardless of whether those were performed by IESO, as initial servicer, a replacement servicer or an LDC. The performance guarantee would, amongst other things, require the Province to stand behind (including taking responsibility for helping remedy any breaches in) the representations, warranties and covenants made be the servicer and the servicer's or LDCs' obligations to collect and remit clean energy adjustments. It would also require the Province to ensure that the servicer and, if applicable, LDC, performs their servicing activities as set out in the securitization documents and if they do not, put in place an alternative servicer who would perform those servicing activities. Subject to confirmation with the rating agencies, the performance guarantee should also address commingling risk during each month. Typically, as long as the performance guarantor maintains an acceptable rating (at or slightly above investment grade), cash collections should be permitted to be commingled each month until remitted to the Financing Entity with the Province taking responsibility for the commingling risk (i.e. the Province would be required to remit if there were amounts collected and commingled, but not received by the Financing Entity). Our understanding is that the LDCs will be performing certain servicing and collection activities which we would describe in the legal agreements, but we are not expecting the LDCs be parties to the agreements themselves. The performance guarantee would need to cover activities performed by the LDCs, as well as the servicer, including any cash collected but not remitted to the Financing Entity. The performance guarantee would also include the Province standing behind any other potential liabilities arising from the performance of such servicing obligations by the parties involved in servicing these investment assets on behalf of the Financing Entity.

From:	Montgomery, Kaitlin (MOF)
To:	Gadi Mayman; Ronald Kwan
Cc:	Carolyn Calwell (MCSS); Steen Hume (CAB); Ken Kandeepan; Tom McKinlay (MAG); ASHBOURNE, STEPHEN; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Veinot, Cindy (TBS); Nadine Petsche (MOF); Scott Nelms (ENERGY); Hresa Gavaris; Anna Strathy
Subject:	Hold | Meeting with OPG on Provincial Protection and Assurances Term Sheet - Fair Hydro

From: Ronald Kwan
To: HAHN PARKER Janet -TREASURY
Subject: Meeting Forward Notification: OPG - FHP - Guarantee Meeting and Conference Call

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Your meeting was forwarded

Ronald Kwan <mailto:/o=OFA/ou=OFINA%20ADMINISTRATIVE%20GROUP/cn=RECIPIENTS/cn=RKWAN> has forwarded your meeting request to additional people.

Meeting

OPG - FHP - Guarantee Meeting and Conference Call

Meeting Time

August-10-17 14:00 - August-10-17 15:00

Recipients

Bruno Amara
<mailto:/o=OFA/ou=Exchange%20Administrative%20Group%20(FYDIBOHF23SPDLT)/cn=Recipients/cn=c8e6b2113a6141dfad5e3eb88d547a26-Bruno%20Amara>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

———

From:	HAHN PARKER Janet -TREASURY
To:	Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; "Persaud, Donnie - Debt Capital Markets"; Benaiah, Ian; "Montgomery, Kaitlin (MOF)"; Anna Strathy; Carlos Yep; "Cindy.Veinot@ontario.ca"; Mike Manning; Steen Hume (CAB); Niehaus, Katrina
Cc:	Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject:	OPG - FHP - Guarantee Meeting and Conference Call
Attachments:	disclaimer.html

When: Thursday, August 10, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OFA Offices, 1 Dundas St West., 14th Floor

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

Meeting Location Updated: 1 Dundas St., West, 14th floor
Attendees please call Hresa at 5-8002 to gain access to the Executive Boardroom on the 14th Floor

Toll-free dial-in number: 1-866-602-5461
Local dial-in number: 416-212-8011
Conference ID: 4717656

Please come to OPG's office, 18th floor. We will meet you at the Glass Doors.

No pass required.

Thank you.

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From:	HAHN PARKER Janet -TREASURY
To:	Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; "Persaud, Donnie - Debt Capital Markets"; Benaiah, Ian; "Montgomery, Kaitlin (MOF)"; Anna Strathy; Carlos Yep; "Cindy.Veinot@ontario.ca"; Mike Manning; Steen Hume (CAB); Niehaus, Katrina
Cc:	Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject:	OPG - FHP - Guarantee Meeting and Conference Call
Attachments:	ATT14600 1.jpg disclaimer.html

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Conference ID: 4717656

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No pass required.

Thank you.

Notice Updated: August 9 @ 3:40 - see the following e-mail

From: Adalja, Sunil [mailto:Sunil.Adalja@cibc.com]
Sent: Wednesday, August 09, 2017 3:28 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Persaud, Donnie - Debt Capital Markets; 'Niehaus, Katrina'; 'Turnbull, Vickie'; 'Sebastiano, Rocco'; 'Milligan, Peter'; 'Smith, Elliot'; 'Khan, Nur'; Alvi, Shariq; 'Delaney, Brian'; 'Benaiah, Ian'; Persad, Nicole; 'King, Richard'; Hume, Tyler; D'Angelo, Paul; Stoddart, Jesse - Debt Capital Markets; 'Fullerton, Rick'; Maciel, Andrew
Subject: EXTERNAL – RE: OGP/Fair Hydro - Provincial Guarantee

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

John, as discussed, below is our summary for the discussion with the Province –
Thanks, Sunil.

Change in Law
* We are okay with the province assuming the financing obligations of the Financing Entity ("FE") with no early redemption rights (by either the province or investors) in the circumstance of a Change in Law.
* We note that in the US, the potential downgrade on the bonds once the province steps could result in the bonds spreads widening, which would result in losses for US investors. US investors would expect to be compensated for that risk (either through a pre-determined step-up in pricing when the province assumes the obligation, and/or through a premium they would require for this risk when purchasing the notes initially).

Approval Process
* The province (OFA) will want to see the form of the various program and series documents that will be captured by the guarantee/support before approving any guarantee. As long as the documents are in the agreed form, they would NOT need to provide specific approval for each series.
* We understand that Provincial control of the financing program would eliminate OPG's consolidation of the Financing Entity so Provincial approval of transaction terms needs to be avoided.
* Since the financing documents cannot affect how or when the Provincial Guarantee is triggered (Change in Law and Constitutionality of the Program) then specific Provincial approval of transaction documentation would be seen as exerting control and must be avoided.

Warehousing Risk
* The issue is the moratorium period and the length of time for the warehouse provider to be taken out if there is an extended period of time where the program can no longer be funded in the term markets
* Option here if the warehouse providers are to absorb the risk is:
o On default, pricing would step up materially
o After [one] year following the moratorium ended, pricing would step up again and would continue to do so every 6 months until the warehouse is repaid
o This mechanic helps compensate the warehouse providers to the extended tail risk in this transaction and creates alignment of interest
* The warehouse providers cannot control the maturity of other pieces of FE debt issues. The step up schedule incents the financial manager to ensure that there are no competing maturities (so that the warehouse provider can be repaid as quickly as possible) during the first few years after the moratorium period ends
* This would be subject to banks receiving necessary approvals as the tail risk is longer than anticipated. That process will require a greater understanding of how long the tail could be (i.e. how quickly could we be repaid through clean energy adjustments after the moratorium period has ended)

* The higher pricing will result in higher clean energy pricing during this default scenario. As an alternative to letting the warehouse provider being repaid over time through these clean-energy adjustments, the province could voluntarily choose to purchase a term note to take out the warehouse provider
* The province could resell that note in the secondary market if that market opens
* Assuming there are other series of notes outstanding by the FE that are sold to others, the province may need to confirm whether there are consolidation concerns from being an investor in the FE (and if so, what threshold of notes would result in that consolidation risk)
* The province is not obligated to purchase notes in this scenario, this is just an option they would have at their disposal if they did not want to clean energy adjustment amounts (and hence charges to ratepayers) to increase because the default pricing
* Other options
o IESO provides the warehouse instead of the banks – note that this will likely be limited based on the size of the IESO's credit facility. If there is a prolonged period of market disruption, then this credit facility will likely fill up fast and at that point the Province will likely have to increase the facility or backstop further rebates --> essentially under a market disruption, the Province may ultimately have to backstop the funding. Based on this, it may be preferable for the Province to provide a market disruption guarantee to the short-term ABCP facilities?

Servicing Guarantee
* The substantive risk not addressed through regulation/legislation/contract so far is commingling risk
* In general, the rating agencies require daily cash remittance of any collections for non-investment grade entities unless a suitable mitigant is in place
o The investment grade test will generally need to be by the same rating agency rating the FE debt
* (E.g. if an entity is not rated by Moody's, but is rated investment grade by DBRS and S&P, and the FE debt is rated by Moody's, Moody's may not consider that entity to be investment grade and may not permit them to commingle)
* Fitch often gives an exception for this where they may allow commingling for investment grade entities even if Fitch does not rate that counterparty
o This should not be an issue from IESO perspective, but can be an issue from an LDC perspective
* The majority of the LDCs are not
* Rating individual LDCs by each of the rating agencies that rate the FE debt will be time consuming and expensive and is not a viable option
* Proposal would be for IESO or another highly rated entity to post a L/C facility to mitigate the servicing risks of the LDCs and thereby avoiding any review of the LDCs by the agenciesand avoid daily cash remittances for any LDC assessed to be non-investment grade

Sunil Adalja | Executive Director, Securitization | CIBC Capital Markets | CIBC World Markets Inc.
161 Bay St., 5th Floor, Toronto, ON M5J 2S8 | Tel: 416 594-7383 | Fax: 416 956-6220 | sunil.adalja@cibc.com

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To:	Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; "Persaud, Donnie - Debt Capital Markets"; Benaiah, Ian; "Montgomery, Kaitlin (MOF)"; Anna Strathy
Cc:	Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject:	OPG - FHP - Guarantee
Attachments:	disclaimer.html

When: Thursday, August 10, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OFA Offices, 1 Dundas St West., 14th Floor

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Meeting Location Updated: 1 Dundas St., West, 14th floor.

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From:	Gadi Mayman
To:	Veinot, Cindy (TBS)
Cc:	Helen Angus (MOHLTC); Karen Hughes (MGS); Scott Thompson (CAB); Ronald Kwan; Tim Schuurman (MOF); Ken Kandeepan; Nadine Petsche (MOF)
Subject:	OPG debt Guarantee
Date:	Monday, February 27, 2017 11:10:38 AM

Hi Cindy, we all had to rush off to our next meetings following FPC, so we didn't get a chance to have a discussion about why a Provincial guarantee of all of OPG's debt related to the trust isn't a problem for the accounting treatment that we'd need to get to in order to make the GA smoothing plan work, while direct borrowing and on-lending from the Province is if it's greater than 49% of the total borrowing (actually 44% in their current model).

From a capital markets, investor and rating agency perspective, the guarantee is extremely likely to be lumped in with the rest of our debt, and would be considered just as much of a provincial obligation as guaranteed debt, particularly in this case where the reason that the guarantee is needed is because investors will demand it in order to protect themselves from legislative amendments by a future government. For that reason, it's hard to justify, from a capital markets or cost perspective, having OPG borrowing in its own name with a government guarantee, so is it possible to revisit the potential accounting treatment and determine whether, now that we've effectively moved to a guaranteed structure, we could just have the Province, through the OFA or OEFC, do all of the borrowing and on-lend to OPG?

Gadi

From:	Ken Kandeepan
To:	Anna Strathy; John Kim; John Psinas; James Devine; Carlos Yep; Ronald Kwan
Subject:	Provincial Guarantee Fair Hydro Plan.docx
Date:	Tuesday, August 15, 2017 11:58:42 AM
Attachments:	Provincial Guarantee Fair Hydro Plan.docx

Hi All

As discussed pls find attached the one-pager, for those on the 14th floor if you have any comments/edits can you pls drop in to my office and let me know so that I can incorporate same in the master version of the note. For the third floor, feel free to provide your comments edits via email.

Thanks

Ken k

Provincial Guarantee Fair Hydro Plan – Issues and Next Steps

Provincial Guarantee - Term Sheet Summary

Provincial Guarantee Activation Events:

- Decisions by the Legislative Assembly – Repeal, amendments to statue and/or financing transaction agreements, adverse decision of the courts and change in the organization structure of IESO adversely impacting the Financing Entity.

Guarantee:

- The Province to take over the all of the obligations of the Financing Entity including payments to service providers – trustees, auditors, rating agencies, etc. Provincial guarantee will continue until all obligations of the Financing Entity are discharged.

Commingling Risk:

- IESO to provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from the non-investment Grade LDCs over the next 45-60 days. IOPG estimates the L/C to be approximately $50 million.

Warehouse Takeout Risk:

- Warehouse Default Event – failure to repay the warehouse facility at the end of the commitment term of 12 to 24 months.
- Incurs a cost to the ratepayer in the form of higher interest rates from the step –up pricing clause in the Financing Entity's agreement with the banks providing the warehouse facility.

Issues to be resolved:

- IESO expressed reluctance on issuing either an L/C or assuming responsibility for the commingling risk.
- IESO to discuss internally and respond
- Potential legal issues – MOF and Energy Legal along with Blake's to review Term Sheet

Next Steps:

- Respond to OPG with issues
- Provide OPG with a timeline for the up-coming TB submission on the guarantee so that deadlines are established for resoling outstanding issues and completing a draft version of the guarantee.

Ontario Financing Authority

From:	Mike Manning
To:	Gadi Mayman
Cc:	Ken Kandeepan; Ronald Kwan; Anna Strathy; James Devine; Carlos Yep
Subject:	Provincial Protection and Assurances - Fair Hydro Plan
Date:	Tuesday, August 08, 2017 3:10:38 PM

Hi Gadi:

I talked to John Lee today regarding our upcoming meeting. His assessment is that the dealers will stick to the principles you outlined at the last meeting and provide some options for further consideration. John says the dealers are working on a one page summary that he will be able to send to us in advance of the meeting. He expects it will be more of a business issues meeting rather than a legal meeting. His goal will be to get clarity on the path going forward; understand the options and finalize a plan for moving forward. I expect the one pager may be available over the next day or so.

Mike

From:	Gadi Mayman
To:	Mike Manning; Carlos Yep; Ken Kandeepan; Ronald Kwan; Scott Nelms (ENERGY)
Cc:	Anna Strathy; Hresa Gavaris
Subject:	Provincial Support Agreement
Date:	Thursday, July 27, 2017 9:09:16 AM

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

From:	Hresa Gavaris
To:	James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); "stephen.ashbourne@blakes.com"; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"
Subject:	Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

From:	Hresa Gavaris
To:	James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); "stephen.ashbourne@blakes.com"; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"
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From:	Hresa Gavaris
To:	James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); "stephen.ashbourne@blakes.com"; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"
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From:	Hresa Gavaris
To:	James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); "stephen.ashbourne@blakes.com"; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"
Cc:	Laing, Mark
Subject:	Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

From:	Carlos Yep
To:	Ken Kandeepan; Ronald Kwan; John Kim; John Psinas; James Devine; Bruno Amara; Mike Manning; Opal Kandelas; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Elcombe, James (MOF); Nadine Petsche (MOF); "Cindy.Veinot@ontario.ca"; Bharat Patel (MOF); Salman Qadir; Tom McKinlay (MAG); stephen.ashbourne@blakes.com; Scott Nelms (ENERGY); "Montgomery, Kaitlin (MOF)"
Cc:	Anis Hirani; Angie Georgakakos; Carolyn Calwell (MCSS)
Subject:	Provincial Support Discussion
Attachments:	23148306-v5-Term Sheet - Provincial Support Agreement - May 12.docx 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.pdf

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Conference call
Telephone: 416-406-5763 or 1-866-596-5280
Passcode: 9763326#

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Performance Guarantees	
Performance Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 Performance 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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Performance Guarantee:	Pursuant to a Performance Guarantee, the Performance 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 Performance Guarantee is held to be unenforceable against the Performance Guarantor, the Performance Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.

Indemnity of the Province:	The Province of Ontario will indemnify each Indemnitee for its costs, expenses and losses reasonably incurred by the Indemnitee (including because of claims made against the Indemnitee by one or more of its specified creditors) that result from any of the following (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	The 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.
Approval Requirement:	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, the will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Indemnity:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or for loss of profits.
Undertakings regarding Certain Mismatches	
Avoidance of Mismatches	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 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 all of its related payment obligations and thereby avoid any Mismatch.

Possible Undertaking to Fund Mismatches	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 avoid 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 avoid the Mismatch. Any such undertaking may only be given at or before the incurrence of the funding obligation that would otherwise result in the Mismatch and would be on such terms and conditions, including appropriate compensation to the Province of Ontario, 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.
<u>Documentation</u>	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance 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 Performance Guarantor or the Indemnitor, or any agent or representative of the Performance 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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Performance Guarantees	
Performance Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 Performance Guarantee to its creditors and contractual counterparties, including any indenture trustee acting on behalf of itself and ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

~~**Term:**~~	~~The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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:	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Performance Guarantee, the Performance Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, 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 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Performance Guarantee is held to be unenforceable against the Performance Guarantor, the ~~Provincial Support Agreement~~Performance Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of

[1] ~~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.~~

	any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.
~~Payment Guarantee Event~~Indemnity of the Province:	~~A Payment Guarantee Event will occur if~~The Province of Ontario will indemnify each Indemnitee for its costs, expenses and losses reasonably incurred by the Indemnitee (including because of claims made against the Indemnitee by one or more of its specified creditors) that result from any of the following (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
~~Payment Guarantee~~Term:	~~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.~~ The 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.
Approval Requirement:	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, the will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or for 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Avoidance of Mismatches**	~~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~~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 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 all of its related payment obligations and thereby avoid any Mismatch.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 avoid 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 avoid the Mismatch. Any such undertaking may only be given at or before the incurrence of the funding obligation that would otherwise result in the Mismatch and would be on such terms and conditions, including appropriate compensation to the Province of Ontario, 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.
~~Conditions Precedent to Closing:~~Documentation	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.~~[2]
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance Guarantor ~~is~~and the Indemnitor will be bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Performance Guarantor or ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Performance Guarantor or the Indemnitor, in connection with the ~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

Document comparison by Workshare Compare on Wednesday, June 14, 2017 11:58:41 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/1
Description	TOR_2528-#23148306-v1-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/5
Description	TOR_2528-#23148306-v5-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	88
Deletions	75
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	163

From:	Hanslep, Malle (MOF)
To:	Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Ronald Kwan
Cc:	Tobias P. Whitfield (MOF)
Subject:	Provincial Support Term Sheet
Date:	Friday, May 26, 2017 3:16:14 PM

Hi all,

Further to our meeting on Wednesday, Toby and I have now been in touch with Energy Legal regarding the term sheet and will be attending a meeting with counsel at Blakes next Wednesday morning.

Best,

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan
To: Vivienne Skoberne (MOHLTC)
Subject: RE: CEFD and MO Bi-weekly
Date: Tuesday, July 25, 2017 12:11:57 PM

Hi Vivienne,

Would you know if Scott may have gotten back to Marianne directly on this?

Thanks,
Ron

From: Ronald Kwan
Sent: July-21-17 13:52
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>
Subject: Re: CEFD and MO Bi-weekly

Hi Scott,

Marianne asked about the status of the Provincial Support Agreement and if the Minister would need to be briefed and sign something during the summer.

Would you have time this afternoon to discuss the current status and timing.

Thanks,
Ron

From: Gavin He
Sent: July 21, 2017 12:20 PM
To: Marianne Nguyen (MCYS); Jonathan Tekle (CAB); Nancy Kennedy (MOHLTC); Vivienne Skoberne (MOHLTC); Scott Nelms (ENERGY); Gwendolynne Young (ENE); Ronald Kwan; 'priscilla.hsu@ontario.ca'; 'Smith, Stephanie M. (MOF)'
Subject: RE: CEFD and MO Bi-weekly

Hi all,

Please find attached the agenda for today's meeting:

Regards,
Gavin He

-----Original Appointment-----

From: Gavin He
Sent: Tuesday, July 18, 2017 3:25 PM
To: Gavin He; Marianne Nguyen (MCYS); Jonathan Tekle (CAB); Nancy Kennedy (MOHLTC); Vivienne Skoberne (MOHLTC); Scott Nelms (ENERGY); Gwendolynne Young (ENE); Ronald Kwan; 'priscilla.hsu@ontario.ca'; 'Smith, Stephanie M. (MOF)'
Subject: CEFD and MO Bi-weekly
When: Friday, July 21, 2017 1:15 PM-1:45 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Deputy's Boardroom, 7th FS

Rescheduled due to conflicts.

Hi all,

This is a bi-weekly meeting invite for CEFD/DMO/MO. CEFD will provide an agenda prior to the meeting.

Thanks,
Angie

From:	Anna Strathy
To:	Mike Manning; Ronald Kwan; James Devine; Gadi Mayman; Ken Kandeepan
Subject:	RE: Discussion regarding FHP issues
Date:	Monday, September 11, 2017 9:56:02 AM

OFA staff can join the call from the Executive Boardroom.

-----Original Appointment-----
From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Monday, September 11, 2017 9:48 AM
To: Tobias P. Whitfield (MOF); Mike Manning; Ronald Kwan; James Devine; Tom McKinlay (MAG); Thouin, Alena (ENERGY); Scott Nelms (ENERGY); stephen.ashbourne@blakes.com; Malle Hanslep (MOF); Elcombe, James (MOF); Cengarle, John (MOF); Gadi Mayman; Ken Kandeepan; Anna Strathy; Karpowicz, Eva (MOF)
Subject: Discussion regarding FHP issues
When: Monday, September 11, 2017 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Call - 416-212-8012 - Toll Free: 1-866-633-0848 - Passcode: 5801207#

We will go with this time as it works for most people. Thanks.

Dial in:

Number: 416-212-8012

Toll Free: 1-866-633-0848

Participant Passcode: 5801207#

Also, for those who haven't seen it, attached is an OPG memo on acceleration issues.

<< File: Memorandum on Acceleration Proposal.docx >>

There are some conflicts with the 10 am time. If people are free either this time at 1, or 3:30 will also work.

Please let me know asap, and if not we can keep the original time.

We would like to have a call to discuss the Province's position on how the subordinated debt would be dealt with in the context of the support agreement, as well as the acceleration issues raised by OPG.

Toby

From:	Ronald Kwan
To:	Anna Strathy
Cc:	John Kim
Subject:	RE: Draft Provincial Guarantee Deck
Date:	Thursday, August 24, 2017 4:18:35 PM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v2_Markup5.pptx

Hi Matt,

See attached on the additional slide and other suggestions on the attached markup.

FYI: While this deck is being drafted by IGB for what we understand is a Minister of Energy briefing next week, at this morning's Energy (bi-)weekly on the rate mitigation implementation, that Energy also is looking for a deck to pre-brief in mid-September various Ministers on TB prior to the targeted September 26 TB date for Energy's report back submission. So a heads up to Gadi and Anna.

Ron

From: Anna Strathy
Sent: August-24-17 14:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi Ron,

Keley is wondering on the status of the additional slide on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.

Thanks,
Matt on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 2:37 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Just checking in on the slide. I'm hoping to share the deck with MOF legal soon but would like to share the updated deck.

From: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Date: Thursday, Aug 24, 2017, 9:52 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments

without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>

Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Provincial Guarantee to Support the Financing Entity Under the Ontario Fair Hydro Plan Act

- As contemplated under the Ontario Fair Hydro Plan Act (OFHP Act), OPG is requesting a Provincial Guarantee to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts under the OFHP Act.
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee or indemnity.*

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the ~~create a regulatory asset approximately equal to the~~ difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset -- ~~and has~~ the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable [or reflected in higher financing costs, to be passed on to ratepayers]
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt [Note: MOF Legal has posed a query on assessing materiality as part of activation] would activate the Provincial Guarantee, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers [Comment from OPG: I think the assumption should be that the Province services the debt and service providers rather than replacing the debt with Provincial debt. Similarly, service providers would continue on except for maybe OPG as FSM but the Province already has that ability so there is nothing additional required.] [Details – TBD, with input from Blakes and MOF Legal. Could make a distinction between external service providers vs OPG provided services.]
- Additional details, including terms and conditions to be specified by the LGIC in an OIC, or by the Ministers, need to be settled on, as the approvals process proceeds
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- OPCD will need to review the details of the proposed Provincial Guarantee to be provided for any accounting implications
    - E.g., an unlimited Provincial Guarantee may cause the debt to be treated as Provincial debt, so the details on terms and conditions and activation events should be reviewed by OPCD.
- If a guarantee is provided, the Province takes on a contingent liability
    - The creation of a contingent liability will not currently affect net debt
    - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$11B to $21B (TBC by Energy)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
    - The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations ~~an amount equal to the weighted average cost of the debt~~ it has assumed ~~is servicing~~ under the guarantee

Next Steps

- Continue to work through outstanding issues related to the provincial guarantee
- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC
    - The term sheet being discussed between MOF staff and OPG would inform a proposed Order-in-Council (OIC)
        - The guarantee agreement would need to be drafted in accordance with the OIC
        - Whether to include a maximum liability amount would need to be considered in developing the TB submission and the request for the OIC
        - Based on recent (August 15) draft Energy estimates for the total debt under the Global Adjustment smoothing scenarios, a maximum amount of debt to be financed by a financing entity would be in the range of $11 billion (assuming a 5% interest rate). The actual amount could change.

From: Anna Strathy
To: Ronald Kwan
Subject: RE: Draft Provincial Guarantee Deck
Date: Wednesday, August 23, 2017 5:42:40 PM

Thanks Ron,

I have provided them with our edits as well as your suggestions.

As far as sharing with Energy and MOF DMO's I've followed up and will let you know when I've heard back.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 4:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.

I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and what about the TB submission too?).

Also, I would suggest that the slide on the IESO and LC note that the proposal was from OPG and the IESO was going to review the proposal (unless Keley has now heard back from the IESO and the option is fine with them?).

Generally, then, it might be good to note the work-in-progress status.

And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

From: Anna Strathy
Sent: August 23, 2017 4:17 PM
To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

Hi All,

Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please

let me know if any of you would be willing to attend.

Thanks,
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Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

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Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From: John Kim
To: Ronald Kwan
Subject: RE: Draft Provincial Guarantee Deck
Date: Wednesday, August 23, 2017 4:28:10 PM
Attachments: ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v1_Markup.pptx

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Hi Ron,

Not quite sure if we can provide edits without nailing down the direction. Would you like me to suggest extra time?

Thanks,

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 4:17 PM
To: John Psinas <John.Psinas@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
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Thanks.

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Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
th

7 Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Fair Hydro Act, 2017,* enables the IESO to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
    - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
    - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
    - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers (TBD – need to confirm direction)
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- If a guarantee is provided, the Province takes on a contingent liability
  - The creation of a contingent liability will not currently affect net debt
  - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (TBC or updated by Energy)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt most likely will increase by an amount equal to the contingent liability at that point in time
  - The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee

Events Not Covered by the Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
    - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk would be addressed through an escalation of the pricing of such short term debt:
    - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends
    - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

Events Not Covered by Provincial Guarantee

LDC Comingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity
    - For any LDC which is not rated by rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless a mitigation strategy is in place
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's
    - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk could be addressed through providing the financing entity with a letter of credit:
    - Amount of letter of credit is approximately one to two months estimated collections from all unrated or non-investment grade LDCs
    - Letter of credit to be provided by the IESO on behalf of the LDCs
    - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

Next Steps

- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- [Others]

From:	Anna Strathy
To:	John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject:	RE: Draft Provincial Guarantee Deck
Date:	Wednesday, August 23, 2017 4:17:08 PM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v1 OFA edits.pptx

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Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

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Subject:	RE: Draft Provincial Guarantee Deck
Date:	Wednesday, August 23, 2017 11:13:33 AM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v1 August 23.pptx

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
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Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Fair Hydro Act, 2017,* enables the IESO to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
    - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
    - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
    - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- If a guarantee is provided, the Province takes on a contingent liability
  - The creation of a contingent liability will not currently affect net debt.
  - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (TBC)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt mostly likely will increase by an amount equal to the contingent liability at that point in time
  - The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee

Events Not Covered by the Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
    - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk would be addressed through an escalation of the pricing of such short term debt:
    - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends
    - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

Events Not Covered by Provincial Guarantee

LDC Comingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity
    - For any LDC which is not rated by rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless a mitigation strategy is in place
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's
    - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk could be addressed through providing the financing entity with a letter of credit:
    - Amount of letter of credit is approximately one to two months estimated collections from all unrated or non-investment grade LDCs
    - Letter of credit to be provided by the IESO on behalf of the LDCs
    - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

Next Steps

- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- [Others]

From: John Kim
To: Ronald Kwan
Subject: RE: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 4:15:04 PM
Attachments: ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v2_Markup5.pptx

---

Looks good to me. I caught a typo in my earlier drafts that persisted so it's in green in slide 2.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 24, 2017 4:11 PM
To: John Kim <John.Kim@ofina.on.ca>
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Hi John,

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Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

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Provincial Guarantee to Support the Financing Entity Under the Ontario Fair Hydro Plan Act

- As contemplated under the Ontario Fair Hydro Plan Act (OFHP Act), OPG is requesting a Provincial Guarantee to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts under the OFHP Act.
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
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Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the ~~create a regulatory asset approximately equal to the~~ difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
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To:	Ronald Kwan
Subject:	RE: Draft Provincial Guarantee Deck
Date:	Thursday, August 24, 2017 3:37:17 PM

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Hi Ron,

I think it works. I just made the numbers on slide 5 consistent with the numbers on slide 6 (11bn to 21bn instead of 24bn to 26bn).

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Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Provincial Guarantee to Support the Financing Entity Under the Ontario Fair Hydro Plan Act

- As contemplated under the Ontario Fair Hydro Plan Act (OFHP Act), OPG is requesting a Provincial Guarantee to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts under the OFHP Act.
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify act debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee or indemnity.*

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the ~~create a regulatory asset approximately equal to the~~ difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset -- ~~and has~~ the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable [or reflected in higher financing costs, to be passed on to ratepayers]
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt [Note: MOF Legal has posed a query on assessing materiality as part of activation] would activate the Provincial Guarantee, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
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Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- OPCD will need to review the details of the proposed Provincial Guarantee to be provided for any accounting implications
    - E.g., an unlimited Provincial Guarantee may cause the debt to be treated as Provincial debt, so the details on terms and conditions and activation events should be reviewed by OPCD.
- If a guarantee is provided, the Province takes on a contingent liability
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Next Steps

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CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the ~~create a regulatory asset approximately equal to the~~ difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable [or reflected in higher financing costs, to be passed on to ratepayers]
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt [and MOF staff propose to be those that pass the materiality test] would activate the Provincial Guarantee, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers ~~[Comment from OPG: I think the assumption should be that the Province services the debt and service providers rather than replacing the debt with Provincial debt. Similarly, service providers would continue on except for maybe OPG as FSM but the Province already has that ability so there is nothing additional required.]~~ [Details - TBD by MOF Legal, the Province's external legal counsel Blakes and OPG]
- A number of details, including mechanisms of the guarantee and scope, need to be finalized prior to undertaking steps for approvals
  - For example, is the Province agreeing to take over and replace the Financing Entity or just servicing the debt obligations?
  - For example, is the Province agreeing to cover fees of service providers, ratings agencies, etc?
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
    - OPG will be making a commercial spread on its subordinated debt (the 5% directly funded and 44% indirectly funded by the Province's equity injection) and therefore a level of risk assumption by OPG and the Financing Entity would help rationalize the profit represented by the spread
    - While MOF staff view that OPG's proposed wording for the guarantee have received its auditor's blessing, consolidation of OPG to the Province's Accounts are OPCD's call and to be reviewed by the Auditor General of Ontario, i.e. requires OPCD's engagement and review
- If a guarantee is provided, the Province takes on a contingent liability
    - The creation of a contingent liability will not currently affect net debt
    - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (TBC)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
    - The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed is servicing under the guarantee

Approvals as Mandated by the OFHP Act

- Under s.5(3) of the OFHP Act:
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify act debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee of indemnity.*
- The terms sheet being discussed between MOF staff and OPG require finalization through an Order-in-Council (OIC)
  - Once the term sheet is agreed upon, the guarantee agreement would need to be drafted in accordance with the OIC
  - The maximum liability amount would need to be considered in the request for the OIC
  - Current estimate for the total debt under the Global Adjustment smoothing scenarios, based on OFA/CEFD staff appear to be in the range of $11 to $21 billion range
    - With the 51% debt market financing, the OIC approvals would be in the $6 to $11 billion range

Next Steps

- Continue to work through outstanding issues related to the provincial guarantee
- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC

From: Anna Strathy
To: Ronald Kwan
Subject: RE: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 10:01:08 AM
Attachments: ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v2.pptx

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Hi Ron,

Attached is the revised deck.

If you'd like me to push back on us being responsible for compiling that slide, I can do so.

Thanks,
Matt

From: Ronald Kwan
Sent: Thursday, August 24, 2017 9:42 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

Would you send me the revised deck and we can work on a slide.

That said, I believe the OIC requirement is in the draft TB submission that they seemed to have drawn on, and they should be very familiar with the requirements of the OFHP Act.

Ron

On Aug 24, 2017, at 9:38 AM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Ron,
>
> As per your question, this deck will be shared with both DMOs once its finalized.
>
> They've incorporated the feedback we provided, with the exception of the additional slide you'd suggested on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.
>
> Keley is asking if the OFA can put that slide together. Is this something your team could assemble? Or would it be more appropriate for me to distribute to someone else?
>
> Thanks,
> Matt on behalf of Anna Strathy
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 23, 2017 4:41 PM

To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Draft Provincial Guarantee Deck

Hi Matt,

They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.

I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and what about the TB submission too?).

Also, I would suggest that the slide on the IESO and LC note that the proposal was from OPG and the IESO was going to review the proposal (unless Keley has now heard back from the IESO and the option is fine with them?).

Generally, then, it might be good to note the work-in-progress status.

And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

From: Anna Strathy
Sent: August 23, 2017 4:17 PM
To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

Hi All,

Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

Provincial Guarantee

Briefing for Minister of Energy

DRAFT – Tuesday August 22nd, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators
    - The IESO can then sell the regulatory asset and has the right to recover those deferred amounts from specified consumers in the future
    - OPG as the Financial Services Manager is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable
- OPG has requested that the Province provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity

Provincial Guarantee

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers [Comment from OPG: I think the assumption should be that the Province services the debt and service providers rather than replacing the debt with Provincial debt. Similarly, service providers would continue on except for maybe OPG as FSM but the Province already has that ability so there is nothing additional required.]
- The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged
- The guarantee may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered

Considerations

- If a guarantee is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- If a guarantee is provided, the Province takes on a contingent liability
  - The creation of a contingent liability will not currently affect net debt
  - The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (TBC)] of debt principal, along with associated interest payments
- In the event the guarantee is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
  - The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed is servicing under the guarantee

Events Not Covered by the Provincial Guarantee

Short Term Debt Financing Takeout Risk

- Monthly purchases by the financing entity would initially be financed using short term debt as the financing entity needs to warehouse a larger amount for efficient execution in the term debt markets
    - Short term debt providers are exposed to the risk that takeout funding is not available in term debt markets for a period of time
    - The structure of the warehousing is subject to change
- If this short term debt is not repaid by the end of the short term debt facility commitment this risk would be addressed through an escalation of the pricing of such short term debt:
    - Interest rate for short term debt increases by a specified amount at the time of the event until the moratorium period ends [OPG COMMENT: Interest rate continues to increase every 6 months and is not related to ending of moratorium period. At end of moratorium period if the short term debt is paid off then there is no issue. However, if short term debt continues to be outstanding then rate should continue to increase until fully repaid]
    - Thereafter, interest rate increases by a further specified amount for every additional 6 month interval during which the short term debt remains unpaid

Events Not Covered by Provincial Guarantee

LDC Comingling Risk

- Clean Energy Adjustment amounts will be collected from consumers by LDCs and held until remitted to the IESO / financing entity
    - For any LDC which is not rated by rating agencies which are rating the funding obligations, the agencies will require these LDCs to remit collections daily, unless a mitigation strategy is in place
- The majority of LDCs are not rated and it would be cost prohibitive to establish ratings for these entities; 10 LDCs are collectively rated by S&P, DBRS and Moody's
    - It is estimated that LDCs not rated by any agency deliver power to ~25% of the Ontario electricity market
- This risk could be addressed through providing the financing entity with a letter of credit:
    - Amount of letter of credit is approximately one to two months estimated collections from all unrated or non-investment grade LDCs
    - Letter of credit to be provided by the IESO on behalf of the LDCs
    - Cost of the letter of credit and any amounts drawn can be recovered by the IESO through the Global Adjustment
- Alternatively, this risk may be addressed by the IESO depositing funds into a reserve account for a similar amount or the IESO contractually agreeing to assume responsibility for paying the CEA amounts required to be remitted by such LDCs

Approvals

- [NEW SLIDE]

Next Steps

- Continue to work through outstanding issues related to the provincial guarantee
- Finalize draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC

From: Anna Strathy
To: Ronald Kwan
Subject: RE: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 9:38:32 AM

Hi Ron,

As per your question, this deck will be shared with both DMOs once its finalized.

They've incorporated the feedback we provided, with the exception of the additional slide you'd suggested on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.

Keley is asking if the OFA can put that slide together. Is this something your team could assemble? Or would it be more appropriate for me to distribute to someone else?

Thanks,
Matt on behalf of Anna Strathy

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Sent: Wednesday, August 23, 2017 4:41 PM
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Hi Matt,

They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.

I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and what about the TB submission too?).

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And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

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Sent: August 23, 2017 4:17 PM
To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

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Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
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Hi All,

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They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From:	Anna Strathy
To:	Ronald Kwan
Cc:	John Kim
Subject:	RE: Draft Provincial Guarantee Deck
Date:	Thursday, August 24, 2017 4:21:09 PM

Great, thanks Ron. I'll pass it along.

I'll also flag the mid-September pre-brief deck for Anna and Gadi when they're back.

Thanks,
Matt

From: Ronald Kwan
Sent: Thursday, August 24, 2017 4:19 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,

See attached on the additional slide and other suggestions on the attached markup.

FYI: While this deck is being drafted by IGB for what we understand is a Minister of Energy briefing next week, at this morning's Energy (bi-)weekly on the rate mitigation implementation, that Energy also is looking for a deck to pre-brief in mid-September various Ministers on TB prior to the targeted September 26 TB date for Energy's report back submission. So a heads up to Gadi and Anna.

Ron

From: Anna Strathy
Sent: August-24-17 14:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi Ron,

Keley is wondering on the status of the additional slide on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.

Thanks,
Matt on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 2:37 PM

To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Just checking in on the slide. I'm hoping to share the deck with MOF legal soon but would like to share the updated deck.

From: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Date: Thursday, Aug 24, 2017, 9:52 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

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From: Anna Strathy
To: Ronald Kwan; John Kim
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing
Date: Friday, August 25, 2017 1:17:52 PM

Hi Ron, John,

Will there be any additional updates on your end for the latest version of the deck? Keley was looking for any additional edits by midday so I hope to send it off soon.

Thanks,
Matt

From: John Psinas
Sent: Friday, August 25, 2017 11:44 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Matt,

I spoke with Ken, and we have two small edits in blue font on slides 4 and 5.

Thanks.

John

From: Anna Strathy
Sent: Friday, August 25, 2017 10:36 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi All,

One more round of comments on the briefing deck for the Minister of Energy on the FHP Provincial Guarantee.

We're being asked if we're ok with MOF LSB edits (tracked in red). Please let me know by mid-day if there are any further comments.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Friday, August 25, 2017 10:23 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi Matt,
Is OFA comfortable with the edits made by MOF LSB? I went through and was able to track them in red in the attached. It would be helpful if you could let me know by mid-day if there are any further edits / comments.
Thanks,
Keley

From: Katona, Keley (MOF)
Sent: August 25, 2017 10:21 AM
To: Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi Toby,
Thanks for these comments. We had provided an initial draft to ENERGY legal to review but have not received any comments. We are planning to make it clear at the briefing that this is a work in progress.
Keley

From: Whitfield, Tobias P. (MOF)
Sent: August 25, 2017 9:53 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Keley,

I have attached some comments. Because it is a powerpoint, there are no track changes.

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I also wonder, if given that the presentation is to the Minister of Energy, that Energy legal should take a look as well.

Let me know if I can be of further assistance.

Best,
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Katona, Keley (MOF)
Sent: August 24, 2017 5:12 PM
To: Whitfield, Tobias P. (MOF)
Cc: Strathy, Anna (OFA); Hanslep, Malle (MOF)
Subject: Draft Provincial Guarantee Deck for Minister of Energy Briefing

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Happy to discuss if you have any questions.

Thanks,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From:	John Psinas
To:	Anna Strathy; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Cc:	Ken Kandeepan; Gadi Mayman
Subject:	RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing
Date:	Friday, August 25, 2017 11:44:20 AM
Attachments:	ENERGYMinister"sBriefing_OFHP_ProvincialGuarantee_v3 - August 25.pptx

Matt,

I spoke with Ken, and we have two small edits in blue font on slides 4 and 5.

Thanks.

John

From: Anna Strathy
Sent: Friday, August 25, 2017 10:36 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
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One more round of comments on the briefing deck for the Minister of Energy on the FHP Provincial Guarantee.

We're being asked if we're ok with MOF LSB edits (tracked in red). Please let me know by mid-day if there are any further comments.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Friday, August 25, 2017 10:23 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck for Minister of Energy Briefing

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Cc: Strathy, Anna (OFA); Hanslep, Malle (MOF)
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Ontario

Provincial Support Agreement

Briefing for Minister of Energy

DRAFT – Thursday August 24th, 2017

CONFIDENTIAL & COMMERCIALLY SENSITIVE

Background

- The *Ontario Fair Hydro Act, 2017,* enables the IESO to establish a variance account to record the deferral amounts from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account
    - The IESO can then sell the regulatory asset – the right to recover those deferred amounts from specified consumers in the future
    - OPG, as the Financial Services Manager, is authorized to establish one or more financing entities that may incur funding obligations
    - The Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from ratepayers
- To purchase the regulatory asset from the IESO, the Financing Entity must borrow a portion of the funds from capital markets (planned to be 51%, with other financing to come from OPG and, indirectly, the Province)
    - OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable or would result in higher financing costs, to be passed on to ratepayers
- OPG has requested that the Province provide a support agreement that supports the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would guarantee the repayment of the funding obligations of the Financing Entity

Provisions Under the Act

- As contemplated under the Act, OPG is requesting a Provincial commitment to support the planned Financing Entity's ability to borrow to finance the deferral of global adjustment amounts in certain limited circumstances
- Under s.5(3) of the OFHP Act,
  - *The LGIC may by order,*
    - *Authorize the Minister (of Energy) and the Minister of Finance, acting together on behalf of the Province,*
      - *To agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and*
      - *To determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity*
    - *Specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance*
    - *Specify a maximum liability for the guarantee or indemnity*

Provincial Support Agreement

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial support, including:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity
  - A court decision that declares the rights of the Financing Entity to recover amounts from ratepayers to be invalid or unenforceable
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity
- In the event the guarantee is triggered, the Province may take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers
  - The Province could potentially service the debt and the service providers ~~rather than replace the debt with Provincial debt and could replace OPG as the financial services manager~~
- The support agreement may need to be revised at a future date, or approval from the Province may be required, if the financing entity must access US market as investors in that market will likely require additional compensation if the guarantee is triggered
- Additional details, including terms and conditions to be specified by the LGIC in an Order-In-Council (OIC), or by the Ministers, need to be settled on, as the approvals process proceeds

Considerations

- If a support agreement is not provided, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from the IESO or the cost of the financing will be potentially materially greater than it otherwise would be
- OPCD will need to review the details of the proposed Provincial support agreement for any accounting implications
    - E.g., an unlimited Provincial guarantee would cause the debt to be treated as Provincial debt
- If a support agreement is provided, the Province takes on a contingent liability
    - The creation of a contingent liability will not currently affect net debt
    - The amount of the contingent liability will increase over the duration of the Fair Hydro Plan
        - The most recent estimate for total debt to be financed by a financing entity would be in the range of $11 billion (assuming a 5% interest rate)
- In the event the support agreement is triggered, the Province's net debt will most likely increase by an amount equal to the contingent liability at that point in time
    - The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the support agreement

Next Steps

- Continue to work through outstanding issues related to the provincial support agreement
- Negotiate draft term sheet, working with OPG / OFA / MOF / Legal / Dealers
- Ministry of Finance to seek necessary approvals from TB / MBC
- Seek LRC / Cabinet approval for OIC
    - The term sheet would inform a proposed OIC
        - Whether to include a maximum liability amount would need to be considered in developing the TB submission and the request for the OIC
- The support agreement would need to be drafted in accordance with the OIC

From: Ronald Kwan
To: Anna Strathy
Cc: John Kim
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing
Date: Friday, August 25, 2017 1:25:07 PM

Hi Matt,

Not at this time. If there are further edits after feedback from the Energy side / DMO, we'd like to review.

And there'd be input too on the next deck Provincial Support Agreement deck for the mid-September timeframe for pre-briefing ministers on TB.

Ron

From: Anna Strathy
Sent: August-25-17 13:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck for Minister of Energy Briefing

Hi Ron, John,

Will there be any additional updates on your end for the latest version of the deck? Keley was looking for any additional edits by midday so I hope to send it off soon.

Thanks,
Matt

From: John Psinas
Sent: Friday, August 25, 2017 11:44 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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Sent: August 24, 2017 5:12 PM
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Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From: Ken Kandeepan
To: Scott Nelms (ENERGY)
Cc: Gadi Mayman; Anna Strathy; Ronald Kwan; Mike Manning; Carlos Yep
Subject: RE: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro
Date: Thursday, July 06, 2017 5:13:07 PM

Hi Scott

I had to leave a little early for the tele conference, I believe that Gadi did make this point, however, we just want to reiterate it. We are not in favour of the acceleration option residing in the hands of the bondholders. As a matter of fact removing it entirely is acceptable, if it has to stay the ability to exercise has to be limited to the Province.

Assuming the option remains at the discretion of the Province, the 1% premium should be removed. Hopefully you can pass this on to Stephen for inclusion in any feedback to OPG. If there is no feedback intended at this time and the decision is to meet with OPG on the indemnity, we can make these points at the meeting.

Thanks

Ken k

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Wednesday, July 05, 2017 2:44 PM
To: Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>
Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Hi,

Please see the following comments from OPG / Torys on the guarantees.

I wonder if we are now at a point we should suggest sitting down with OPG on this perhaps early next week.

Thanks,
Scott

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: June 30, 2017 3:12 PM
To: Nelms, Scott (MOF)
Cc: WONG Leslie -LAWDIV; RYFA Ken -TREASURY; HAHN PARKER Janet -TREASURY

Subject: FW: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

Scott:

Further to our discussion on the outstanding issues, please find below the comments from the Dealers on the "Markup" of the Provincial Protection and Assurance term sheet.
As noted below, the next step should be to get the appropriate parties from the Province to sit down with the dealers and OPG to go over the points and agree on a basis to move forward.
We should try to do that sometime next week. Let us know what times work on the Province side and we will coordinate with the Dealers & counsels.

John

From: Mansoori, Nina [mailto:nmansoori@torys.com]
Sent: Friday, June 30, 2017 12:24 PM
To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Cc: Ramchandani, Rima; Hill, Krista; Feldman, Michael; Emes, Aaron; Mansoori, Nina
Subject: EXTERNAL – Comments on Provincial Protection and Assurances Term Sheet - Fair Hydro

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

John/Les/Ken,

Please find below an issues list on the Province's comments on the Provincial Protection and Assurances Term Sheet (formerly the Provincial Support Agreement). This list reflects input from the dealers, Oslers and Torys. Please let us know if you have any additional comments or questions. If not, will you be reaching out to the Province to schedule a meeting next week (with the dealers, OPG, the Province and their counsels) to discuss these points? The dealers and their counsel don't see value in exchanging further drafts of the term sheet until they have had an opportunity to meet with the Province. We agree with this approach and are happy to assist in coordinating a meeting for next week. It would also be helpful to hear the Province's rationale and concerns for making some of these changes. Please let us know.

Many thanks,
Nina

1. The Servicing Guarantee:

(a) It is written in favour of only the financing entity. However, in the MTSA, we are asking for covenants directly in favour of Indenture Trustee. The Indenture Trustee/specified creditors should have the direct benefit of the guarantee rather than relying on an indirect security interest in the servicing guarantee.

(b) It should be clarified that the servicing obligations of the electricity vendors are covered.

(c) If the guarantee is unenforceable, we should fall back to an indemnity, not a "functionally equivalent direct covenant" which is an uncertain concept.

(d) We don't want an exclusion for economic loss. That may cover whatever losses the specified creditors do suffer.

2. Change of Law.

(a) This should be written as a guarantee not an indemnity.

(b) It should be directly in favour of the Indenture Trustee/specified creditors and it should cover all the "finance amount" and not just funding obligations.

(c) We do not want the guarantee to be provided by another entity which is in turn guaranteed by Ontario. It should come directly from Ontario.

(d) There should be no "materiality" threshold for a claim. If obligations are not paid in full, then there should be a claim.

(e) The choice to assume or accelerate should be at the option of the holders, not the guarantor.

(f) If accelerated, then the 1% premium should be payable. This is a voluntary termination by the Province.

3. Undertaking Regarding Mismatches (market disruption)

(a) At best this structure defers the discussion of protection for a market disruption. At worst, it is impractical that take-out financing needs to be arranged in advance of each warehouse financing. We should rely on a definition of market disruption.

4. Approvals.

(a) Province to clarify what is contemplated under the heading "Approval Requirement". Is Province proposing to approve any obligation incurred by the Financing Entity?

(b) Approval under Section 28 of the *Financial Administration Act* to be attained (in case the OFHPA is declared void in its entirety).

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From:	Gavin He
To:	Ronald Kwan
Cc:	John Kim; Bruno Amara; Salman Qadir
Subject:	RE: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Thursday, May 18, 2017 10:37:07 AM
Attachments:	Term Sheet - Provincial Support Agreement - May 12 - CEFDmarkup2.docx

Hi Ron,

Please find attached the comments from EFB.

The document is also saved under below folder:
S:\Users\CEF\Hydro 2017\Electricity Prices\Mitigation Proposals\Debt Financing the GA\GA Structure\Guarantee Agreement\Guarantee Agreement Draft - Dated May 12 2017

Thanks,
Gavin He

From: Ronald Kwan
Sent: Wednesday, May 17, 2017 1:52 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Hi John,

Please review.

Ron

From: Mike Manning
Sent: May-17-17 10:01
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Not sure if you have seen the newest version. We are setting up a meeting to discuss further.

Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, May 15, 2017 2:01 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>

Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; PRESTON Stuart -TREASURY <stuart.preston@opg.com>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Mike:
Attached is the Dealers latest markup for the Provincial Support Agreement. Their changes center primarily with the Market Disruption.
We can arrange a call to discuss the dealer position.
John

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, May 12, 2017 6:10 PM
To: WONG Leslie -LAWDIV; LEE John -TREASURY; RYFA Ken -TREASURY; Hill, Krista; Ramchandani, Rima; mfeldman@torys.com
Cc: Peric, Christiane; Persaud, Donnie - Debt Capital Markets; Fullerton, Rick; Innes, Michael; Smith, Elliot; Maciel, Andrew; Adalja, Sunil; Alvi, Shariq; "Benaiah, Ian' (ian.benaiah@rbccm.com)'; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)'; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)'; Milligan, Peter; 'Murray, Tim (tim.murray@rbccm.com)'; Khanna, Raj - Corporate Banking; 'Niehaus, Katrina'; 'Mullen, Max M.'; 'Collins, Patrick J (Patrick.Collins@gs.com)'; 'Delaney, Brian (Brian.Delaney@gs.com)'
Subject: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Please find enclosed a revised draft of the Term Sheet for the Provincial Support Agreement.
Regards, Rocco

From: Persaud, Donnie - Debt Capital Markets [mailto:Donnie.Persaud@cibc.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Sebastiano, Rocco <RSebastiano@osler.com>; Fullerton, Rick <RFullerton@osler.com>; Innes, Michael <MInnes@osler.com>; Smith, Elliot <ESmith@osler.com>; Maciel, Andrew <Andrew.Maciel@cibc.com>; Adalja, Sunil <Sunil.Adalja@cibc.com>; Alvi, Shariq <Shariq.Alvi@cibc.com>; "Benaiah, Ian' (ian.benaiah@rbccm.com)' <ian.benaiah@rbccm.com>; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)' <vickie.turnbull@rbccm.com>; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)' <david.dalbello@rbccm.com>; Milligan, Peter <PMilligan@osler.com>; 'Murray, Tim (tim.murray@rbccm.com)' <tim.murray@rbccm.com>; Khanna, Raj - Corporate Banking <Raj.Khanna@CIBC.ca>; 'Niehaus, Katrina' <Katrina.Niehaus@gs.com>; 'Mullen, Max M.' <Max.Mullen@gs.com>; 'Collins, Patrick J (Patrick.Collins@gs.com)' <Patrick.Collins@gs.com>; 'Delaney, Brian (Brian.Delaney@gs.com)' <Brian.Delaney@gs.com>
Cc: Peric, Christiane <Christiane.Peric@cibc.com>
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Please see attached.
Donnie Persaud | Executive Director | Debt Capital Markets | CIBC Capital Markets | CIBC World Markets Inc.
161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 |

donnie.persaud@cibc.com

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Tuesday, April 25, 2017 4:54 PM
To: Persaud, Donnie - Debt Capital Markets
Cc: WONG Leslie -LAWDIV; PRESTON Stuart -TREASURY; RYFA Ken -TREASURY; LIU Sheen -TREASURY
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Donnie:
Further to our discussion last week, please find attached the draft term sheet relating to the Provincial Support. In this draft the Province will assume the obligations of the debt under certain conditions. This draft document reflects the Province initial thoughts. Stu will coordinate this agreement from our end.
John

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Confidential – Solicitor & Client Privileged – Draft for Discussion Purposes Only
Draft: May 12, 2017

Provincial Support Agreement Term Sheet

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.
Beneficiaries:	The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**") on behalf of itself and all other persons 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity.
Term:	The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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.

[1] 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.

Performance Guarantee:	Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both 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 Beneficiaries for any losses that result.
Payment Guarantee Event:	A Payment Guarantee Event will occur if: (A) the Legislative Assembly of Ontario repeals the Act; or (B) 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) 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 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.

Commented [SQ21]: Please provide this agreement. We would like to understand the guarantor's exposure without understanding what obligations IESO has and what risk is associated with them.

One key question here might be whether IESO is entering into the agreement as itself or as an Agent of, for example, the LDCs (i.e. for servicing).

Commented [SQ22]: This is the Province guaranteeing the LDCs, correct? Why is this needed? In what circumstance will the guarantor need to step in when the IESO has the first obligation to fulfil and the guarantee already covers that, no? The next sentence seems to be sufficient…

If so, isn't it the IESO job to collect and failing to do, within its means, triggers the guarantee? Note that the IESO may elect to use its credit facility to ensure issues from LDCs do not affect the investor.

Commented [SQ23]: In what circumstance would this arise?

Commented [SQ24]: What constitutes a market disruption [for six months or more]? This needs to be defined.

Regardless, and notwithstanding the (un)likelihood of a six moth market disruption, why would the Province provide a guarantee on the market risk that almost all market investments would take? This makes this sound like a risk-free investment…

Commented [SQ25]: The Province may wish to consider that this is moving refinancing risk to the Province even though the Province has no say in the decision-making of the Trust, including how and on what terms it sells the debt instruments.

Province may wish to consider mandating that all long-term debt instruments be carried to the remaining term of the FHP to mitigate the refinancing risk.

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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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 Payment Guarantee Event and may in such notice demand payment or performance of the Guarantor's obligation under the Provincial Support Agreement, as applicable.

Commented [SQ26]: I may be missing something but why would the government guarantee the premium that the seller would be earning? The guarantee should cover principal and, if needed, any actual costs that the parties incurred.

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.[2]
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

[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

From:	Ronald Kwan
To:	John Kim; Bruno Amara; Salman Qadir
Cc:	Gavin He
Subject:	RE: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Thursday, May 18, 2017 12:36:23 PM
Attachments:	Term Sheet - Provincial Support Agreement - May 12 - CEFDmarkup3.docx

Hi,

Thanks. A few comments added. Have you discussed with CMD staff on the evolution of this to this point?

Ron

From: Gavin He
Sent: May-18-17 10:37
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; Salman Qadir <Salman.Qadir@ofina.on.ca>
Subject: RE: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Hi Ron,

Please find attached the comments from EFB.

The document is also saved under below folder:
S:\Users\CEF\Hydro 2017\Electricity Prices\Mitigation Proposals\Debt Financing the GA\GA Structure\Guarantee Agreement\Guarantee Agreement Draft - Dated May 12 2017

Thanks,
Gavin He

From: Ronald Kwan
Sent: Wednesday, May 17, 2017 1:52 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Hi John,

Please review.

Ron

From: Mike Manning
Sent: May-17-17 10:01
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Not sure if you have seen the newest version. We are setting up a meeting to discuss further.

Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, May 15, 2017 2:01 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; PRESTON Stuart -TREASURY <stuart.preston@opg.com>
Subject: FW: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Mike:
Attached is the Dealers latest markup for the Provincial Support Agreement. Their changes center primarily with the Market Disruption.
We can arrange a call to discuss the dealer position.
John

From: Sebastiano, Rocco [mailto:RSebastiano@osler.com]
Sent: Friday, May 12, 2017 6:10 PM
To: WONG Leslie -LAWDIV; LEE John -TREASURY; RYFA Ken -TREASURY; Hill, Krista; Ramchandani, Rima; mfeldman@torys.com
Cc: Peric, Christiane; Persaud, Donnie - Debt Capital Markets; Fullerton, Rick; Innes, Michael; Smith, Elliot; Maciel, Andrew; Adalja, Sunil; Alvi, Shariq; "Benaiah, Ian' (ian.benaiah@rbccm.com)'; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)'; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)'; Milligan, Peter; 'Murray, Tim (tim.murray@rbccm.com)'; Khanna, Raj - Corporate Banking; 'Niehaus, Katrina'; 'Mullen, Max M.'; 'Collins, Patrick J (Patrick.Collins@gs.com)'; 'Delaney, Brian (Brian.Delaney@gs.com)'
Subject: EXTERNAL – RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Please find enclosed a revised draft of the Term Sheet for the Provincial Support Agreement.
Regards, Rocco

From: Persaud, Donnie - Debt Capital Markets [mailto:Donnie.Persaud@cibc.com]
Sent: Tuesday, April 25, 2017 6:34 PM
To: Sebastiano, Rocco <RSebastiano@osler.com>; Fullerton, Rick <RFullerton@osler.com>;

Innes, Michael <MInnes@osler.com>; Smith, Elliot <ESmith@osler.com>; Maciel, Andrew <Andrew.Maciel@cibc.com>; Adalja, Sunil <Sunil.Adalja@cibc.com>; Alvi, Shariq <Shariq.Alvi@cibc.com>; "Benaiah, Ian' (ian.benaiah@rbccm.com)' <ian.benaiah@rbccm.com>; "vickie.turnbull@rbccm.com' (vickie.turnbull@rbccm.com)' <vickie.turnbull@rbccm.com>; "david.dalbello@rbccm.com' (david.dalbello@rbccm.com)' <david.dalbello@rbccm.com>; Milligan, Peter <PMilligan@osler.com>; 'Murray, Tim (tim.murray@rbccm.com)' <tim.murray@rbccm.com>; Khanna, Raj - Corporate Banking <Raj.Khanna@CIBC.ca>; 'Niehaus, Katrina' <Katrina.Niehaus@gs.com>; 'Mullen, Max M.' <Max.Mullen@gs.com>; 'Collins, Patrick J (Patrick.Collins@gs.com)' <Patrick.Collins@gs.com>; 'Delaney, Brian (Brian.Delaney@gs.com)' <Brian.Delaney@gs.com>
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161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 | donnie.persaud@cibc.com

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From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Tuesday, April 25, 2017 4:54 PM
To: Persaud, Donnie - Debt Capital Markets
Cc: WONG Leslie -LAWDIV; PRESTON Stuart -TREASURY; RYFA Ken -TREASURY; LIU Sheen -TREASURY
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John

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Confidential – Solicitor & Client Privileged – Draft for Discussion Purposes Only
Draft: May 12, 2017

Provincial Support Agreement Term Sheet

Fair Hydro Plan Act, 2017

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[1] 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.

Performance Guarantee:	Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both 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 Beneficiaries for any losses that result.
Payment Guarantee Event:	A Payment Guarantee Event will occur if: (A) the Legislative Assembly of Ontario repeals the Act; or (B) 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) 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 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.

Commented [SQ21]: Please provide this agreement. We would like to understand the guarantor's exposure without understanding what obligations IESO has and what risk is associated with them.

One key question here might be whether IESO is entering into the agreement as itself or as an Agent of, for example, the LDCs (i.e. for servicing).

Commented [SQ22]: This is the Province guaranteeing the LDCs, correct? Why is this needed? In what circumstance will the guarantor need to step in when the IESO has the first obligation to fulfil and the guarantee already covers that, no? The next sentence seems to be sufficient…

If so, isn't it the IESO job to collect and failing to do, within its means, triggers the guarantee? Note that the IESO may elect to use its credit facility to ensure issues from LDCs do not affect the investor.

Commented [RK3R2]: I think much of the protections are in response to past discussions and related to credit rating and financing, including achieving access and rates – good to discuss with CMD staff.

Commented [RK4]: With these and other terms defined under the proposed Act, should they be capitalized, and the explicitly tied in this agreement to the definitions under the Act?

Commented [SQ25]: In what circumstance would this arise?

Commented [RK6]: Should a potential cure period be provided for, should the Province choose to amend the Act to make it enforceable?

Commented [SQ27]: What constitutes a market disruption [for six months or more]? This needs to be defined.

Regardless, and notwithstanding the (un)likelihood of a six moth market disruption, why would the Province provide a guarantee on the market risk that almost all market investments would take? This makes this sound like a risk-free investment…

Commented [RK8R7]: As above, I think much of the protections are in response to past discussions and related to credit rating and financing, including achieving access and rates – good to discuss with CMD staff.

Commented [SQ29]: The Province may wish to consider that this is moving refinancing risk to the Province even though the Province has no say in the decision-making of the Trust, including how and on what terms it sells the debt instruments.

Province may wish to consider mandating that all long-term debt instruments be carried to the remaining term of the FHP to mitigate the refinancing risk.

Commented [RK10R9]: Seems excessive, as the deferred amounts would start being paid down in the 2020s, so borrowing all to the end of the term of the FHP likely would result a higher rate and higher interest costs in the end, as more debt would be outstanding than the remaining balance of the deferral balance over the pay back period.

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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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 Payment Guarantee Event and may in such notice demand payment or performance of the Guarantor's obligation under the Provincial Support Agreement, as applicable.

Commented [SQ211]: I may be missing something but why would the government guarantee the premium that the seller would be earning? The guarantee should cover principal and, if needed, any actual costs that the parties incurred.

Commented [RK12R11]: Precedents? A potential 1% premium seems less of a penalty, prepayment cost, make whole than typical, say under a "Canada call" – is that right?

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.[2]
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

[2] Opinions on the validity and enforceability of Provincial Support Agreement will be required.

From: John Kim
To: Ronald Kwan
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Wednesday, August 23, 2017 1:40:26 PM

Thanks. I think I read that Gadi hasn't responded from one of Matt's emails. Might be worthwhile sending him an email…..

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:39 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John,

The TB submission has to be updated, of course. And as Keley seems to have drawn on the earlier draft for her slides, we should make conforming markups to the deck.

Ron

From: John Kim
Sent: August-23-17 13:29
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Sure. Is the intent to use this to markup the deck (the Energy one)?

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:27 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi,

Please review.

Ron

From: Anna Strathy
Sent: August-23-17 13:23
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM

To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be

multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then

reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY

Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this

message from your system. Ontario Power Generation Inc.

From:	Ronald Kwan
To:	Malle Hanslep (MOF); Scott Nelms (ENERGY)
Cc:	Ken Kandeepan; John Kim; Tobias P. Whitfield (MOF)
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 4:20:04 PM

Resending...

-----Original Message-----
From: Ronald Kwan
Sent: August-21-17 15:45
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I have not seen anything.

Looping in Scott too (now back and refreshed from vacation).

It may be worthwhile asking OPG to send what they have (recognising that there may be inconsistencies), as the "in parallel" and "in sync" may well be a moving target anyways, as the Province provides comments on OPG's draft.

Ron

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 15:33
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Any luck with the documents?

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 18, 2017 6:11 PM
To: Hanslep, Malle (MOF)
Cc: Kandeepan, Ken (OFA); Kim, John (OFA)
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim

<John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
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To: Malle Hanslep (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Monday, August 21, 2017 4:19:33 PM

I did -- ops.

Ron

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from your system. Ontario Power Generation Inc.

From: Ronald Kwan
To: Malle Hanslep (MOF)
Cc: Ken Kandeepan; John Kim; Tobias P. Whitfield (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Monday, August 21, 2017 3:44:50 PM

Hi Malle,

I have not seen anything.

Looping in Scott too (now back and refreshed from vacation).

It may be worthwhile asking OPG to send what they have (recognising that there may be inconsistencies), as the "in parallel" and "in sync" may well be a moving target anyways, as the Province provides comments on OPG's draft.

Ron

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 15:33
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Any luck with the documents?

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 18, 2017 6:11 PM
To: Hanslep, Malle (MOF)
Cc: Kandeepan, Ken (OFA); Kim, John (OFA)
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>
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Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

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Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

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Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

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Yes, they are working to that timeline.

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Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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To:	Ronald Kwan
Cc:	Ken Kandeepan; John Kim; Tobias P. Whitfield (MOF)
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 3:33:23 PM

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<Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
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From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 2:57:15 PM

Hi,

Yes on both. The distribution list people may invite others too, so good to use a large boardroom

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 14:39
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I can coordinate a meeting on this a you'd requested.

As for attendees, I assume I should include everyone on the distribution list below? And as far as location goes, would we typically host this meeting at the OFA?

Thanks,
Matt on behalf of Anna Strathy

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Monday, August 21, 2017 2:26 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

Please find attached comments on the term sheet prepared by Steve Ashbourne, Province's external counsel, for our review and consideration. These comments are prepared for the purposes of internal discussion at the proposed meeting of Provincial staff and should not with others outside the Province.

Thank you.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY); Elcombe, James (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

Perhaps Matt (on behalf of Anna) could arrange a time in the next day or two. Would Steve Ashbourne have provided written comments that could be circulated in advance.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 12:36
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

We have received comments back on the term sheet from Steve Ashbourne, the Province's external counsel, and think it would be helpful to have an internal Provincial meeting to review the comments on the draft. On the legal side, it might be helpful to get some more insight into how the proposed guarantee and warehouse facility are to work from a business perspective. In addition, we are awaiting further draft documents that set the context and describe what is to be guaranteed as I understand that Torys (OPG's counsel) has been working on these.

It would be helpful to coordinate such a meeting soon with the appropriate Provincial representatives.

Thanks.

Malle

From: Hanslep, Malle (MOF)
Sent: August 17, 2017 9:23 AM
To: Kandeepan, Ken (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
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- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
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Fair Hydro program such as payments to service providers (such as trustees, auditors, etc), rating agencies and any fees due to the securities commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

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From:	Hanslep, Malle (MOF)
To:	Ronald Kwan; Mike Manning; John Kim; John Psinas; Keley Katona (ENERGY); James Devine; Carlos Yep; Montgomery, Kaitlin (MOF); Gadi Mayman; Scott Nelms (ENERGY)
Cc:	Anna Strathy; Tobias P. Whitfield (MOF); Ken Kandeepan; Carolyn Calwell (MCSS); Tom McKinlay (MAG); Elcombe, James (MOF)
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 2:26:20 PM
Attachments:	23148306-v10-Term Sheet - Provincial Support Agreement - May 12.DOCX 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.PDF

Hi all,

Please find attached comments on the term sheet prepared by Steve Ashbourne, Province's external counsel, for our review and consideration. These comments are prepared for the purposes of internal discussion at the proposed meeting of Provincial staff and should not with others outside the Province.

Thank you.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY); Elcombe, James (MOF)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

Perhaps Matt (on behalf of Anna) could arrange a time in the next day or two. Would Steve Ashbourne have provided written comments that could be circulated in advance.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-21-17 12:36
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi all,

We have received comments back on the term sheet from Steve Ashbourne, the Province's external counsel, and think it would be helpful to have an internal Provincial meeting to review the comments on the draft. On the legal side, it might be helpful to get some more insight into how the proposed guarantee and warehouse facility are to work from a business perspective. In addition, we are awaiting further draft documents that set the context and describe what is to be guaranteed as I understand that Torys (OPG's counsel) has been working on these.

It would be helpful to coordinate such a meeting soon with the appropriate Provincial representatives.

Thanks.

Malle

From: Hanslep, Malle (MOF)
Sent: August 17, 2017 9:23 AM
To: Kandeepan, Ken (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Malle

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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 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.*

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]
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

[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?

	(including by way of any order by the Ontario Energy Board)][4], that adversely affects 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; (C) the Legislative Assembly of Ontario directly or indirectly amending the Guarantee or any of the financing transaction agreements without the agreement of the indenture trustee; (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 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; 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 each case in any way that adversely affects 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.][6]

[4] Too broad and unlimited.

[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:	The indenture trustee will have the right to require that, upon the occurrence of a Guarantee Activation Event, the Guarantor 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 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]

[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"?

Approval Requirements:	A Guarantee will become effective in respect of a Financing Entity's obligations (including any modification) only after the Guarantor has confirmed in 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 of the Guarantee on a basis consistent with this term sheet, will annex the applicable forms of program and series documents under which obligations of the Financing Entity may arise (e.g., form of trust indenture and series supplemental indenture). As long as the documents under which an obligation arises are and remain consistent in all material respects with such agreed upon 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 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 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

[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?

Governing Law:	Province of Ontario

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.*
<u>Commingling Risk (applies to Warehouse as well as any Term transactions)</u>

[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.

Commingling Risk[13] 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)[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 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]

[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.

[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.

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	
Commitment Period for Warehouse[20]:	Expected to be 12-24 months.[21]
Takeout for Warehouse:	Expected to be every 3-6 months.
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[23] 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.

[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.

[22] These should be spelled out in detail in the term sheet, given the economic consequences to the structure.

[23] 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.

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, on behalf of the Province.

[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.

Provincial Protection and Assurances

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[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.

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[3] LGIC?

[4] Too broad and unlimited.

~~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;

(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

(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~~

~~[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?

	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

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:**	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.

	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	
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 lesser 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

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/9
Description	TOR_2528-#23148306-v9-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/10
Description	TOR_2528-#23148306-v10-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	98
Deletions	31
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	129

From:	Hanslep, Malle (MOF)
To:	Ronald Kwan; Mike Manning; John Kim; John Psinas; Keley Katona (ENERGY); James Devine; Carlos Yep; Montgomery, Kaitlin (MOF); Gadi Mayman; Scott Nelms (ENERGY)
Cc:	Anna Strathy; Tobias P. Whitfield (MOF); Ken Kandeepan; Carolyn Calwell (MCSS); Tom McKinlay (MAG); Elcombe, James (MOF)
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 12:50:37 PM

Hi Ron,

Yes, I will pass on the comments shortly. Thanks.

Malle

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 21, 2017 12:46 PM
To: Hanslep, Malle (MOF); Manning, Mike (OFA); Kim, John (OFA); John Psinas; Katona, Keley (MOF); Devine, James (OFA); Yep, Carlos (OFA); Montgomery, Kaitlin (MOF); Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY); Elcombe, James (MOF)
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Sent: August-21-17 12:36
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
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Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

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From:	Ronald Kwan
To:	Malle Hanslep (MOF); Mike Manning; John Kim; John Psinas; Keley Katona (ENERGY); James Devine; Carlos Yep; Montgomery, Kaitlin (MOF); Gadi Mayman; Scott Nelms (ENERGY)
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Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 12:46:11 PM

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The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott’s group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From:	Ronald Kwan
To:	John Kim
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:38:45 PM

Hi John,

The TB submission has to be updated, of course. And as Keley seems to have drawn on the earlier draft for her slides, we should make conforming markups to the deck.

Ron

From: John Kim
Sent: August-23-17 13:29
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Sure. Is the intent to use this to markup the deck (the Energy one)?

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:27 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi,

Please review.

Ron

From: Anna Strathy
Sent: August-23-17 13:23
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June nd

22 and there are quite a few differences.

- The last sentence in the opening italics that “the 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” has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the “performance” guarantee is added into (E), i.e. IESO’s role.
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- The Guarantee wording includes the word “assume” as opposed to just “pay”.
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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna

Strathy

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks
>
> Ken K

> **From:** LEE John -TREASURY [mailto:john.s.lee@opg.com]
> **Sent:** Monday, August 14, 2017 6:37 PM
> **To:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY

<ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

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From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 11:36:07 AM

Hi Matt,

Ok.

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:36
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Apologies, I was referring to the draft TB submission.

In regards to the term sheet, it doesn't look like Anna has sent Malle any feedback from Gadi.

Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:30 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Are you referring to comments on both the draft of the TB submission that Anna sent around, as well as the comments Malle had on the OPG draft of a term sheet?

Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it

to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
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Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
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Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
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Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

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Malle

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Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

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Sent: Tuesday, August 15, 2017 10:12 AM
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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

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Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Sent: August 15, 2017 6:50 AM
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Pls note latest version, comments are appreciated.

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From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 11:35:37 AM

Apologies, I was referring to the draft TB submission.

In regards to the term sheet, it doesn't look like Anna has sent Malle any feedback from Gadi.

Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:30 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
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Are you referring to comments on both the draft of the TB submission that Anna sent around, as well as the comments Malle had on the OPG draft of a term sheet?

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Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

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> Hi Ken,
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> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have

not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Date:	Monday, August 21, 2017 11:29:43 AM

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Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
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Pls note latest version, comments are appreciated.

Thanks

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Sent from my iPhone

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<Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
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From: Anna Strathy
To: Ronald Kwan
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Monday, August 21, 2017 11:18:14 AM

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

From: "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
Date: August 17, 2017 at 9:22:58 AM EDT
To: "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
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From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Monday, August 21, 2017 11:06:07 AM
Attachments:	RE For Review and Comment TBMBC Submission on Provincial Guarantee .msg

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment

interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised

term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend,

so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director

Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]

Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From: Hanslep, Malle (MOF) [Malle.Hanslep@ontario.ca]
To: Anna Strathy [Anna.Strathy@ofina.on.ca]; Veinot, Cindy (TBS) [Cindy.Veinot@ontario.ca]; Steen Hume (CAB) [Steen.Hume@ontario.ca]; Keley Katona (ENERGY) [Keley.Katona@ontario.ca]; Carolyn Calwell (MCSS) [Carolyn.Calwell@ontario.ca]; Tom McKinlay (MAG) [Tom.McKinlay@ontario.ca]
CC: Gadi Mayman [Gadi.Mayman@ofina.on.ca]; Ronald Kwan [Ronald.Kwan@ofina.on.ca]; Ken Kandeepan [Ken.Kandeepan@ofina.on.ca]; John Kim [John.Kim@ofina.on.ca]; John Psinas [John.Psinas@ofina.on.ca]; James Devine [James.Devine@ofina.on.ca]; Carlos Yep [Carlos.Yep@ofina.on.ca]; Vivienne Skoberne (MOHLTC) [Vivienne.Skoberne@ontario.ca]; Smith, Stephanie M. (MOF) [Stephanie.M.Smith@ontario.ca]; Deena Padamadan [Deena.Padamadan@ofina.on.ca]; Tobias P. Whitfield (MOF) [Tobias.Whitfield@ontario.ca]; Hosick, Sarah (TBS) [Sarah.Hosick@ontario.ca]; Montgomery, Kaitlin (MOF) [Kaitlin.Montgomery@ontario.ca]; Matthew Breadner [Matthew.Breadner@ofina.on.ca]; Anthony Reiss (MGS) [Anthony.Reiss@ontario.ca]; Michael Waterston (MOF) [Michael.Waterston@ontario.ca]
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Monday, August 21, 2017 10:29:24

Hi all,

Thanks for the draft. We sent some comments on this last Thursday. I think that there are some issues to work through respecting the scope of the approval being requested from TB, the content of the OIC and how specific it is since the authority for the Ministers to provide the guarantee comes from the Act and therefore how specific the OIC will be in terms of scope, terms and conditions (as it is for the LGIC to determine or allow the 2 Ministers to determine terms and conditions), and the maximum liability to be guaranteed. We also need to consider whether the term sheet should be included in the TB submission or whether there should be a shorter description of the terms and conditions given that there may need to be further revision of the wording of the term sheet.

We are currently awaiting draft agreements from OPG, such as the Master Trust Indenture, Supplemental Trust Indenture, disclosure documents and a description of the amounts and timing of the expected debt issuances in order to be able to better determine the scope of the guarantee as well as how the Province's required authorization and approval process given the expected multiple debt issuances. It is difficult to comment on the guarantee wording in the absence of draft documents that set out what is being guaranteed.

We have received a revised term sheet from OPG and have also received some comments on it from the Province's outside counsel. Perhaps a next step might be to have an internal MOF/OFA/ENE meeting to discuss the comments on the this term sheet.

Thank you.

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 18, 2017 4:07 PM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might

bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From: Ken Kandeepan
To: Malle Hanslep (MOF); Ronald Kwan
Cc: John Kim
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Sunday, August 20, 2017 11:26:52 AM

I suspect the "in sync" reference is to ensuring that the subsidiary documents are in accordance with the principles outlined in the Master Indenture document, which will be provided to the province for review and comments.

Thanks

Ken k

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, August 18, 2017 7:59 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron. Hopefully they will send something on Monday. I don't know what they mean by in sync.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ronald Kwan
Sent: Friday, August 18, 2017 18:10
To: Hanslep, Malle (MOF)
Cc: Kandeepan, Ken (OFA); Kim, John (OFA)
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim

Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

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Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

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Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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From:	LEE John -TREASURY
To:	Ken Kandeepan; Ronald Kwan
Cc:	MAUTI John -FIN & C CTRL; Anna Strathy; John Kim; RYFA Ken -TREASURY; WONG Leslie -LAWDIV
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Friday, August 18, 2017 6:04:26 PM

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

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Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
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To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
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<may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY
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From: Ronald Kwan
To: Ken Kandeepan
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 5:21:19 PM

Thanks Ken.

I hope the vacation is going well.

Ron

From: Ken Kandeepan
Sent: August-18-17 17:21
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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From: Ronald Kwan
To: John Kim
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 5:13:57 PM

Hi John,

Would you note to GBED as well that MOF Legal is looking for drafts of the other documents in order to properly review and provide input into the PG material.

Thanks,
Ron

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-18-17 16:42
To: John Kim <John.Kim@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi all

I got comments back from Steve on the term sheet today. I haven't reviewed them yet and will send them to you on Monday. There seem to be a lot of significant issues and as noted previously we don't have copies of any of the draft documents so it makes it very difficult to provide, comments on the term sheet and TB submission.
Thanks

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: John Kim
Sent: Thursday, August 17, 2017 12:03
To: Kandeepan, Ken (OFA); Hanslep, Malle (MOF); Kwan, Ronald (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I will follow up on the request below.

Thanks,

John

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim

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Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>> wrote:
Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.

- It has been changed back to a guarantee from an indemnity.

- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.

- Concept of "materiality" has been deleted for (B) and (D).

- A concept of "any other discriminatory action including OEB Orders has been introduced.

- The Guarantee wording includes the word "assume" as opposed to just "pay".

- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?

- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to

authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

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IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that

outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

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Sent: Tuesday, August 15, 2017 10:12 AM
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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
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Ron

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Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>, Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

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The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY

<sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy

Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From: Ronald Kwan
To: Malle Hanslep (MOF); John Kim; Ken Kandeepan
Cc: Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy; John Psinas; Carlos Yep; James Devine
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 5:12:28 PM

Hi Malle,

Thanks for the update.

Ron

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-18-17 16:42
To: John Kim <John.Kim@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi all

I got comments back from Steve on the term sheet today. I haven't reviewed them yet and will send them to you on Monday. There seem to be a lot of significant issues and as noted previously we don't have copies of any of the draft documents so it makes it very difficult to provide, comments on the term sheet and TB submission.
Thanks

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: John Kim
Sent: Thursday, August 17, 2017 12:03
To: Kandeepan, Ken (OFA); Hanslep, Malle (MOF); Kwan, Ronald (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I will follow up on the request below.

Thanks,

John

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James

Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF)
<Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>> wrote:
Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.

- It has been changed back to a guarantee from an indemnity.

- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.

- Concept of "materiality" has been deleted for (B) and (D).

- A concept of "any other discriminatory action including OEB Orders has been introduced.

- The Guarantee wording includes the word "assume" as opposed to just "pay".

- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?

- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

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Deputy Director

Ministry of the Attorney General

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Telephone: 416-325-1457

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<j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY)
<Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY)
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Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning
<Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep
<Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy
<Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From:	John Kim
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:29:23 PM

Sure. Is the intent to use this to markup the deck (the Energy one)?

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:27 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi,

Please review.

Ron

From: Anna Strathy
Sent: August-23-17 13:23
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>

Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
> - Concept of "materiality" has been deleted for (B) and (D).
> - A concept of "any other discriminatory action including OEB Orders has been introduced.

- The Guarantee wording includes the word “assume” as opposed to just “pay”.
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting

tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys

th

dated June 30 with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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From:	Ronald Kwan
To:	LEE John -TREASURY; MAUTI John -FIN & C CTRL
Cc:	Anna Strathy; Ken Kandeepan; John Kim
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 7:43:25 PM

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com>; MAUTI John -FIN & C CTRL <john.mauti@opg.com>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken - TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
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Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
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Hi John

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Thanks

Ken k

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From:	John Kim
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 7:23:37 PM

I don't believe so as then they ought to have shared with MOF Legal staff who have been asking for it for a long time, repeatedly.

Sure, I can send to the two John's tomorrow.

John

From: Ronald Kwan
Sent: August-17-17 4:52 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John,

Would you know if anyone else in the OFA might have received them?

If not, I'd be inclined just to ask the two Johns for them jointly.

Ron

From: John Kim
Sent: August-17-17 14:13
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

What Malle is looking for is essentially a set of legal documents that set out what the bond or debt instruments to be issued by the Financing Entity would look like.

And Energy Legal is not in the know about the matter and it would require OPG to provide such documents. Essentially, either John Lee or John Mauti would then be the potential contacts. If to go through John Lee, I can ask Mike Manning to follow up. If the other option, then we can do it or have GBED follow up. I am okay either way.

Thanks,

John

From: John Kim

Sent: Thursday, August 17, 2017 12:04 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I will follow up on the request below.

Thanks,

John

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this

document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

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With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same

from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan

Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks
>
> Ken K
>
> ---
>
> **From:** LEE John -TREASURY [mailto:john.s.lee@opg.com]
> **Sent:** Monday, August 14, 2017 6:37 PM
> **To:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>;

Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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To:	"LEE John -TREASURY"; MAUTI John -FIN & C CTRL
Cc:	Anna Strathy; Ken Kandeepan; John Kim
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 4:56:20 PM

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com>; MAUTI John -FIN & C CTRL <john.mauti@opg.com>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

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From: Ronald Kwan
To: Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Thursday, August 17, 2017 4:55:37 PM

Thanks Anna.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

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> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
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Malle

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Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Ken k

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Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
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Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

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Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
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Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 4:54:07 PM

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
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- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these

drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Sent: August 15, 2017 6:50 AM

To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
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<j.hahnparker@opg.com>; Scott Nelms (ENERGY)
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<Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
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From:	Ronald Kwan
To:	John Kim
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 4:51:57 PM

Hi John,

Would you know if anyone else in the OFA might have received them?

If not, I'd be inclined just to ask the two Johns for them jointly.

Ron

From: John Kim
Sent: August-17-17 14:13
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

What Malle is looking for is essentially a set of legal documents that set out what the bond or debt instruments to be issued by the Financing Entity would look like.

And Energy Legal is not in the know about the matter and it would require OPG to provide such documents. Essentially, either John Lee or John Mauti would then be the potential contacts. If to go through John Lee, I can ask Mike Manning to follow up. If the other option, then we can do it or have GBED follow up. I am okay either way.

Thanks,

John

From: John Kim
Sent: Thursday, August 17, 2017 12:04 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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I will follow up on the request below.

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John

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To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

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Thanks

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Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Ministry of Finance Legal Services Branch
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Subject: EXTERNAL – Revised Term Sheet

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To:	Ken Kandeepan; Malle Hanslep (MOF); Ronald Kwan
Cc:	Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy; Ronald Kwan; John Psinas; Carlos Yep; James Devine
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 12:03:49 PM

Hi Malle,

I will follow up on the request below.

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From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
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- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears

there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 16, 2017 12:07:29 PM

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Attachments:	Provincial Guarantee and Other Financing Issues (OFA) 08152017.docx

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Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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PROVINCIAL GUARANTEE AND OTHER FINANCING ISSUES

ISSUE

To support the Fair Hydro Plan, OPG is requesting that the Government of Ontario provide a guarantee to the OPG Financing Entity and prospective debt holders such that the funding obligations of the Financing Entity will be met by the Province under certain circumstances.

TERMS OF THE GUARANTEE

Events that would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments that adversely affect the OPG Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

Guarantee:

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers (i.e., trustees, auditors).
- The Provincial guarantee will continue until all obligations of the Financing Entity are fully discharged.

Recommendation:

- Pending review by MOF Legal, Energy Legal and external counsel (Blake's), recommend TB/MBC approve the terms of the Guarantee as set out in the term sheet and further detailed in the draft guarantee document to be provided by OPG.

OTHER FINANCING/ACCOUNTING RISKS TO BE RESOLVED

Commingling Risk:

- Refers to the risk associated with unrated/below investment grade Local Distribution Companies (LDCs) not remitting collections from ratepayers to the IESO.
- IESO to provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from these LDCs over the

next 45-60 days. OPG estimates the Letter of Credit to be approximately $50 million.
- IESO expressed concerns both from a mandate and accounting perspective on issuing either a Letter of Credit or assuming responsibility for the commingling risk.

Warehouse Takeout Risk:

- Refers to the risk associated with the Financing Entity unable to issue debt in order to pay down the short term financing provided by its banks.
- There may be potential costs to the ratepayer in the form of higher interest rates from the step–up pricing clause in the Financing Entity's agreement with the banks providing the short term financing.

NEXT STEPS

- MOF Legal, Energy Legal and external counsel (Blake's) to review term sheet and draft guarantee document
- OPG/IESO to consider outstanding financing/accounting issues
- TB/MBC decision on Provincial Guarantee (September TBC)

Ontario Financing Authority
August 15, 2017

From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:23:17 PM
Attachments:	TB20 Submission_Provincial Gurantee_V3 MOF LSB August 23rd post Malle comments.docx

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)"

<Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)"
<Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>,
John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)"
<Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)"
<James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken,

would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

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Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
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Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

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Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair H~~h~~ydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [AS1]: Matt, as I understand it, the Province has agreed to take over fees of service providers, rating agencies, etc. Please ask Ron or Malle if this needs to be more explicit in the summary of request.

Commented [MOF LSB2]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK3]: Need to confirm direction.

Commented [RK4]: Wouldn't it be better to write out the name of the Act in full, at least the first time?

Commented [MOF LSB5]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [AS6]: Matt, this is a good question and you may want to raise it with Anthony to raise with TBS. As I understand it, this is coming to TB/MBC on the recommendation of TBS, given the size of the guarantee and its policy implications for the FHP. TB/MBC approval may not be needed, but TBS felt it important for the Board to be aware. Wording may need to be adjusted.

Commented [AS7]: Anthony mentioned TBS is still reviewing the draft submission, but that TB could authorize (instead of Approve). (Matt).

Commented [MOF LSB8]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK9]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [AS10]: You may want to flag this comment for Keley Katona - has Energy landed on a maximum liability?

Commented [MOF LSB11]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK12]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS13]: Analysis is still underway by energy, working with OPG (Matt).

guarantee.

Commented [MOF LSB14]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

Commented [AS15]: I'm not sure I understand this. I would go back to Malle for explanation. Ultimately, we will need Legal to provide advice on how the s. 28 would work.

Commented [AS16]: Followed up with Malle, agreed it should be TBD for now as LSB should provide further advice. (Matt)

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25~~%~~%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to ~~create a regulatory asset~~ establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial SevicesServices Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Commented [MOF LSB17]: This is the short title of the Act.

Commented [MOF LSB18]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [AS19]: Check with Ron.

Commented [RK20]: I'd see if Energy can share its description on this.

Commented [MOF LSB21]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB22]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [AS23]: Not sure we need to incorporate this suggestion. Malle can provide line edits on a subsequent draft if she thinks it requires more specificity. Check with Ron.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability willwouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt willwouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt

Commented [MOF LSB24]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB25]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [AS26]: Check with Ron, but I think this reflects that Legal is only getting up to speed now on the guarantee discussions over the last month. But she's right that we'll need to be consistent in how we refer to the guarantee (it is broader than the debt payments).

Commented [MOF LSB27]: OPCD to review

Commented [AS28]: Recommend sending the draft submission (v. 3) to Sarah Hosick (copy Anthony) and asking if Mark Donaldson can review the submission and provide comment. Cindy likely hasn't had time to review because she's busy with Public Accounts.

Commented [AS29]: I've followed up but still waiting for a response(Matt).

(IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

Commented [MOF LSB30]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK31]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS32]: This issue came up at the term sheet meeting, still TBD (Matt).

Commented [MOF LSB33]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK34]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB35]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

Commented [AS36]: Check with Ron.

APPENDIX

[Insert Final Term Sheet]

From:	Ken Kandeepan
To:	"LEE John -TREASURY"; MAUTI John -FIN & C CTRL
Cc:	James Devine; Mike Manning; Carlos Yep; Anna Strathy; RYFA Ken -TREASURY; WONG Leslie -LAWDIV; LAURETA LAPIRA May -TREASURY; LIU Sheen -TREASURY; HAHN PARKER Janet -TREASURY; Ronald Kwan; John Psinas; John Kim; "Veinot, Cindy (TBS)"; Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 16, 2017 11:31:05 AM

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY

Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

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Yes, they are working to that timeline.

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To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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From:	Hanslep, Malle (MOF)
To:	Ronald Kwan; Ken Kandeepan
Cc:	Gadi Mayman; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Tuesday, August 15, 2017 10:39:55 AM

Thanks Ron. I have passed it on to Energy Legal.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: August 15, 2017 10:12 AM
To: Hanslep, Malle (MOF); Kandeepan, Ken (OFA)
Cc: Mayman, Gadi (OFA); Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA)
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

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the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

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> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
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Gadi, Ron and John

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From: John Kim
To: Ronald Kwan
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides
Date: Tuesday, August 15, 2017 10:19:53 AM

Thanks Ron…..Malle had fyi'ed this to me too.

Are you calling into the meeting?

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:09 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Fw: EXTERNAL – Revised Term Sheet & summary slides

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
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Thanks

Ken k

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From:	Hanslep, Malle (MOF)
To:	Ken Kandeepan
Cc:	Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Tuesday, August 15, 2017 9:26:56 AM

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

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Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]

Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
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> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
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> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
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> Ken K
>
> ---
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> **From:** LEE John -TREASURY [mailto:john.s.lee@opg.com]
> **Sent:** Monday, August 14, 2017 6:37 PM
> **To:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY)

<Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

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Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

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Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:02:27 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017 Markup.docx

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be

a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term

sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt

guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>

Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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<Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
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Subject: EXTERNAL – Revised Term Sheet

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair ~~H~~hydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [AS1]: Matt, as I understand it, the Province has agreed to take over fees of service providers, rating agencies, etc. Please ask Ron or Malle if this needs to be more explicit in the summary of request.

Commented [MOF LSB2]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK3R2]: Need to confirm direction.

Commented [RK4]: Wouldn't it be better to write out the name of the Act in full, at least the first time?

Commented [MOF LSB5]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [AS6R5]: Matt, this is a good question and you may want to raise it with Anthony to raise with TBS. As I understand it, this is coming to TB/MBC on the recommendation of TBS, given the size of the guarantee and its policy implications for the FHP. TB/MBC approval may not be needed, but TBS felt it important for the Board to be aware. Wording may need to be adjusted.

Commented [AS7R5]: Anthony mentioned TBS is still reviewing the draft submission, but that TB could authorize (instead of Approve). (Matt).

Commented [MOF LSB8]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK9R8]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [AS10R9]: You may want to flag this comment for Keley Katona - has Energy landed on a maximum liability?

Commented [MOF LSB11]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK12R11]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS13R11]: Analysis is still underway by energy, working with OPG (Matt).

guarantee.

Commented [MOF LSB14]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

Commented [AS15R14]: I'm not sure I understand this. I would go back to Malle for explanation. Ultimately, we will need Legal to provide advice on how the s. 28 would work.

Commented [AS16R14]: Followed up with Malle, agreed it should be TBD for now as LSB should provide further advice. (Matt)

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25~~%~~%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to ~~create a regulatory asset~~ establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial SevicesServices Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of

Commented [MOF LSB17]: This is the short title of the Act.

Commented [MOF LSB18]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [AS19R18]: Check with Ron.

Commented [RK20R18]: I'd see if Energy can share its description on this.

Commented [MOF LSB21]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB22]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [AS23R22]: Not sure we need to incorporate this suggestion. Malle can provide line edits on a subsequent draft if she thinks it requires more specificity. Check with Ron.

the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability willwouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt willwouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB24]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB25]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [AS26R25]: Check with Ron, but I think this reflects that Legal is only getting up to speed now on the guarantee discussions over the last month. But she's right that we'll need to be consistent in how we refer to the guarantee (it is broader than the debt payments).

Commented [MOF LSB27]: OPCD to review

Commented [AS28R27]: Recommend sending the draft submission (v. 3) to Sarah Hosick (copy Anthony) and asking if Mark Donaldson can review the submission and provide comment. Cindy likely hasn't had time to review because she's busy with Public Accounts.

Commented [AS29R27]: I've followed up but still waiting for a response(Matt).

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

Commented [MOF LSB30]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK31R30]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck--- but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS32R30]: This issue came up at the term sheet meeting, still TBD (Matt).

Commented [MOF LSB33]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK34R33]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB35]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

Commented [AS36R35]: Check with Ron.

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 11:52:15 AM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017 post circulation.doc

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.
> - It has been changed back to a guarantee from an indemnity.
> - The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.

- Concept of “materiality” has been deleted for (B) and (D).
- A concept of “any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word “assume” as opposed to just “pay”.
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee “all of the obligations of the Financing Entity” not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it’s mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn’t contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don’t’ understand what the Province’s role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province’s guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province’s approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It’s not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains “discriminatory action” type language can be difficult to ensure that there are no unforeseen consequences and that the Province’s intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing

note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet

and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair H~~h~~ydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [AS2R1]: Matt, as I understand it, the Province has agreed to take over fees of service providers, rating agencies, etc. Please ask Ron or Malle if this needs to be more explicit in the summary of request.

Commented [MOF LSB3]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [AS4R3]: Matt, this is a good question and you may want to raise it with Anthony to raise with TBS. As I understand it, this is coming to TB/MBC on the recommendation of TBS, given the size of the guarantee and its policy implications for the FHP. TB/MBC approval may not be needed, but TBS felt it important for the Board to be aware. Wording may need to be adjusted.

Commented [AS5R3]: Anthony mentioned TBS is still reviewing the draft submission, but that TB could authorize (instead of Approve). (Matt).

Commented [MOF LSB6]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [AS7R6]: You may want to flag this comment for Keley Katona - has Energy landed on a maximum liability?

Commented [AS8R6]: Analysis is still underway by energy, working with OPG (Matt).

guarantee.

Commented [MOF LSB9]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

Commented [AS10R9]: I'm not sure I understand this. I would go back to Malle for explanation. Ultimately, we will need Legal to provide advice on how the s. 28 would work.

Commented [AS11R9]: Followed up with Malle, agreed it should be TBD for now as LSB should provide further advice. (Matt)

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly.

To this end, immediate rate relief to eligible ratepayers is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to TB/MBC as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future. Under the Act, a Ontario Power Generation Inc. as the Financial Sevices Manager under section 18 is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;

Commented [MOF LSB12]: This is the short title of the Act.

Commented [MOF LSB13]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [AS14R13]: Check with Ron.

Commented [MOF LSB15]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [AS16R15]: Not sure we need to incorporate this suggestion. Malle can provide line edits on a subsequent draft if she thinks it requires more specificity. Check with Ron.

Commented [MOF LSB17]: The wording in this section will need more work once we have reviewed the current term sheet.

- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is given ~~approved,~~ the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt will increase by an amount equal to the contingent liability at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of

Commented [MOF LSB18]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [AS19R18]: Check with Ron, but I think this reflects that Legal is only getting up to speed now on the guarantee discussions over the last month. But she's right that we'll need to be consistent in how we refer to the guarantee (it is broader than the debt payments).

Commented [MOF LSB20]: OPCD to review

Commented [AS21R20]: Recommend sending the draft submission (v. 3) to Sarah Hosick (copy Anthony) and asking if Mark Donaldson can review the submission and provide comment. Cindy likely hasn't had time to review because she's busy with Public Accounts.

Commented [AS22R20]: I've followed up but still waiting for a response(Matt).

Commented [MOF LSB23]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [AS24R23]: Check with Keley Katona, but my sense is that Energy hasn't yet determined the maximum amount.

Commented [AS25R23]: This issue came up at the term sheet meeting, still TBD (Matt).

the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB26]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [AS27R26]: Check with Ron on whether to incorporate and who could provide this detail.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB28]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

Commented [AS29R28]: Check with Ron.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 11:44:42 AM

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)"

<Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)"
<Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>,
John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)"
<Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)"
<James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken,

would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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THIS MESSAGE IS ONLY INTENDED FOR THE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY AND/OR CONFIDENTIAL. If you are not

the intended recipient, you are hereby notified that any review, retransmission, dissemination, distribution, copying, conversion to hard copy or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete this message from your system. Ontario Power Generation Inc.

From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 11:43:52 AM

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

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My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

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Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

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Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
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Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
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Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

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Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain

confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
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> Gadi, Ron and John
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> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
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> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks
>
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From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From:	Ronald Kwan
To:	Anna Strathy
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 11:39:43 AM

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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Ministry of the Attorney General
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Telephone: 416-325-1457

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> **To:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY)

<Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be

helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From:	Ronald Kwan
To:	John Kim
Subject:	RE: EXTERNAL – Revised Term Sheet & summary slides
Date:	Wednesday, August 23, 2017 1:41:29 PM

Hi John,

I think he should get the consolidated markup and clean version of the revised TB sub.

Ron

From: John Kim
Sent: August-23-17 13:40
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks. I think I read that Gadi hasn't responded from one of Matt's emails. Might be worthwhile sending him an email…..

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:39 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John,

The TB submission has to be updated, of course. And as Keley seems to have drawn on the earlier draft for her slides, we should make conforming markups to the deck.

Ron

From: John Kim
Sent: August-23-17 13:29
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Sure. Is the intent to use this to markup the deck (the Energy one)?

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:27 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi,

Please review.

Ron

From: Anna Strathy
Sent: August-23-17 13:23
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Yes something strange seems to have happened to the file format.

I believe I have it fixed, all the comments on comments that I had added appear to be in this version.

Thanks,
Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 1:02 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

We had started a markup on the third floor, so tried to merge the two docs, but some of the comments on comments seemed to have been lost.

Ron

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

From: "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
Date: August 17, 2017 at 9:22:58 AM EDT
To: "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here

and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>

Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this

guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one

section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

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Sent: Friday, August 11, 2017 11:28 AM

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Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

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Thanks

Ken k

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From:	Hanslep, Malle (MOF)
To:	Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Gadi Mayman; Anna Strathy
Subject:	RE: FHP Support Agreement OIC Draft
Date:	Thursday, September 07, 2017 6:32:03 PM

Hi all,

Torys has invited Steve, MOF LSB and Energy LSB to a call tomorrow morning for the lawyers to go over the changes that were made to the term sheet so that they can better understand them. We think it would be helpful to discuss the wording with them directly so Toby and I propose to join the call unless there any concerns about it. It may be constructive for us to discuss the wording directly with Torys and then we would report back to you with on the call. We might also get a better idea of how the guarantee timing will fit in with the timing of the proposed debt issuances. Please let us know if you have any concerns about this.

Malle

-----Original Message-----
From: Whitfield, Tobias P. (MOF)
Sent: September-07-17 5:53 PM
To: Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Hanslep, Malle (MOF)
Subject: FHP Support Agreement OIC Draft

Please find attached, for your review and comment, a draft OIC authorizing the Minister of Finance and the Minister of Energy to give a guarantee/indemnity under the Fair Hydro Plan Act.

This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON
M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Anna Strathy
Subject:	RE: FHP Support Agreement OIC Draft
Date:	Friday, September 08, 2017 9:26:23 AM

Thanks Gadi.

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: September 7, 2017 9:46 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Strathy, Anna (OFA)
Subject: Re: FHP Support Agreement OIC Draft

Thanks, Malle. I think it would be very helpful for you and Toby to be on the call to, hopefully, prevent this discussion from going down unnecessary rabbit holes. My concern is that, to use a term that I often hear lawyers use in a different context, time is of the essence, and it's important that Torys isn't simply using this as an opportunity to extract even more billable hours from what has already been a very profitable file for them.

I had a discussion with OPG's CFO, Ken Hartwick this morning and he told me that they were satisfied with the term sheet, so I don't know why, if their client is satisfied, Torys feels the need to prolong this discussion. To meet the timelines to get this through both our ministries and then have the submission signed by the two DMs and Ministers in time to meet TB's deadlines, this has to be ready to go to CQSD by the end of the day tomorrow, so I don't want to enter into a new round of negotiations with Torys.

Thanks again, Malle. I really appreciate having you and Toby on our side.

Gadi

Original Message
From: Hanslep, Malle (MOF)
Sent: Thursday, September 7, 2017 6:32 PM
To: Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Gadi Mayman; Anna Strathy
Subject: RE: FHP Support Agreement OIC Draft

Hi all,

Torys has invited Steve, MOF LSB and Energy LSB to a call tomorrow morning for the lawyers to go over the changes that were made to the term sheet so that they can better understand them. We think it would be helpful to discuss the wording with them directly so Toby and I propose to join the call unless there any concerns about it. It may be constructive for us to discuss the wording directly with Torys and then we would report back to you with on the call. We might also get a better idea of how the guarantee timing will fit in with the timing of the proposed debt issuances. Please let us know if you have any concerns about this.

Malle

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From: Whitfield, Tobias P. (MOF)
Sent: September-07-17 5:53 PM
To: Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Hanslep, Malle (MOF)

Subject: FHP Support Agreement OIC Draft

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This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
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From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: FHP TB submission
Date:	Friday, August 25, 2017 4:57:58 PM
Attachments:	TB20 Submission_Provincial Gurantee_V3 MOF LSB and OFA updates.docx

Yes, here is the "clean" updated copy, although there are still some margin comments relating to issues that are TBD.

I'll continue to encourage the relevant parties to resolve those next week where we can.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 4:06 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: FHP TB submission

And would you send me the latest clean copy.

Thanks,
Ron

From: Anna Strathy
Sent: August-25-17 16:04
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Ok, thanks Ron.

I'll send it to Anthony and hopefully on Monday to the wider group (I'll cc Gadi when it goes out to the wider group).

Enjoy your weekend.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 3:58 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Hi Matt,

I didn`t review any more following the consolidated set of markups you sent me, with CEFD edits.

I think it`s fine to send that out to the group for further feedback.

As for next week`s meeting, I`d be fine if you attend, unless John can.

Ron

From: Anna Strathy
Sent: August-25-17 15:34
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FHP TB submission

Hi Ron,

I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

From: "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
Date: August 17, 2017 at 9:22:58 AM EDT
To: "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here

and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>

Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this

guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one

section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM

To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a guarantee, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

3. BACKGROUND:

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2]: Need to confirm direction.

Commented [RK3]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [RK4]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amount determination, or cumulative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS5]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

Commented [AS6]: TBD if both Ministers will sign the recommendation on the OIC (Matt).

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account. The Act provides for the IESO to sell the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the Act, Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

Commented [MOF LSB7]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [RK8]: I'd see if Energy can share its description on this.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair

Commented [MOF LSB9]: The wording in this section will need more work once we have reviewed the current term sheet.

Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB10]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [MOF LSB11]: OPCD to review

Commented [MOF LSB12]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK13]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [AS14]: This issue came up at the term sheet meeting, still TBD (Matt).

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB15]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK16]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB17]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From: Ronald Kwan
To: Anna Strathy
Subject: RE: FHP TB submission
Date: Friday, August 25, 2017 4:05:30 PM

And would you send me the latest clean copy.

Thanks,
Ron

From: Anna Strathy
Sent: August-25-17 16:04
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Ok, thanks Ron.

I'll send it to Anthony and hopefully on Monday to the wider group (I'll cc Gadi when it goes out to the wider group).

Enjoy your weekend.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 3:58 PM
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Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
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Hi Matt,

I didn`t review any more following the consolidated set of markups you sent me, with CEFD edits.

I think it`s fine to send that out to the group for further feedback.

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I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

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Sent: August-23-17 11:52
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

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Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

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Hi Ron,

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My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

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Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

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> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
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> Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

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- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing

Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
>
> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
>
> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
>
> Thanks
>
> Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

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To:	Anna Strathy
Cc:	John Kim; Deena Padamadan
Subject:	RE: FHP TB submission
Date:	Friday, August 25, 2017 4:05:03 PM

You too Matt.

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Enjoy your weekend.

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OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

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Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
> **Cc:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject: FW: EXTERNAL – Revised Term Sheet & summary slides**
>
> Gadi, Ron and John
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> Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.
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> The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.
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Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

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From:	Anna Strathy
To:	Ronald Kwan
Cc:	John Kim; Deena Padamadan
Subject:	RE: FHP TB submission
Date:	Friday, August 25, 2017 4:04:00 PM

Ok, thanks Ron.

I'll send it to Anthony and hopefully on Monday to the wider group (I'll cc Gadi when it goes out to the wider group).

Enjoy your weekend.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 3:58 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: FHP TB submission

Hi Matt,

I didn`t review any more following the consolidated set of markups you sent me, with CEFD edits.

I think it`s fine to send that out to the group for further feedback.

As for next week`s meeting, I`d be fine if you attend, unless John can.

Ron

From: Anna Strathy
Sent: August-25-17 15:34
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FHP TB submission

Hi Ron,

I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if

there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

As promised, here is the latest version for your review.

The only comments we've received so far are from Malle, but they are mostly general and I was unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:40 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

What are your planned timelines for getting a consolidated markup for my reviewÉ

Thanks,
Ron

From: Anna Strathy
Sent: August-21-17 11:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
Matt

From: Ronald Kwan
Sent: Monday, August 21, 2017 11:06 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

Ron

From: Anna Strathy
Sent: August-17-17 16:54

To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

Thanks,
Ron

Begin forwarded message:

> **From:** "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
> **Date:** August 17, 2017 at 9:22:58 AM EDT
> **To:** "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - The last sentence in the opening italics that "the 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" has been deleted.

- It has been changed back to a guarantee from an indemnity.
- The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
- Concept of "materiality" has been deleted for (B) and (D).
- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??
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Telephone: 416-325-1457

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Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

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<Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

*** Exercise caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi

and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From: Ronald Kwan
To: Anna Strathy
Cc: John Kim; Deena Padamadan
Subject: RE: FHP TB submission
Date: Friday, August 25, 2017 3:58:23 PM

Hi Matt,

I didn`t review any more following the consolidated set of markups you sent me, with CEFD edits.

I think it`s fine to send that out to the group for further feedback.

As for next week`s meeting, I`d be fine if you attend, unless John can.

Ron

From: Anna Strathy
Sent: August-25-17 15:34
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FHP TB submission

Hi Ron,

I just wanted to touch base on the status of the TB submission before you're off next week.

As it stands, once you're done with your review, I'll distribute the latest copy to Anthony, and once he's commented distribute it to the wider group next week.

I also wanted to ask about the FHP briefing for the energy Minister on Tuesday. Gadi mentioned that if no one else is available I could attend on behalf of the OFA, which I'm happy to do. However, if there is someone more senior who you'd like to attend as well, please let me know.

Thanks,
Matt

From: Anna Strathy
Sent: August-23-17 11:52
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

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The only comments we've received so far are from Malle, but they are mostly general and I was

unsure how to translate them into specific edits given my unfamiliarity with this file.

Before she left Anna gave me some direction on who I could follow up with to address Malle's various points. I've followed up, but the responses I've received are essentially "TBD/ still under review". I've left comments in the margins indicating each individual response.

Please let me know if you have any questions and what I can do to help going forward.

Thanks,
Matt on behalf of Anna Strathy

From: Ronald Kwan
Sent: Wednesday, August 23, 2017 11:45 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-23-17 11:44
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ron,

I'll have something to you soon.

Matt

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What are your planned timelines for getting a consolidated markup for my reviewÉ

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Hi Ron,

No, Anna has not sent any feedback to Malle from Gadi.

My plan is to follow up on the feedback Malle has provided with a variety of parties (Anna left a list) send the draft over to you for review, share it with Anthony Reiss in corporate and then distribute it to the wider distribution group after that.

Please let me know if that sounds like a reasonable approach to you.

Thanks,
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Sent: Monday, August 21, 2017 11:06 AM
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Matt,

Would you know if Anna sent back any feedback from Gadi to Malle? As you likely noted, Malle has been enquiring again.

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From: Anna Strathy
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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron! I did indeed.

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Sent: Thursday, August 17, 2017 4:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Hi Anna,

Did you pass on Malle's comments to Gadi? He might want to review them and provide feedback before he heads off on vacation.

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From: "Hanslep, Malle (MOF)" <Malle.Hanslep@ontario.ca>
Date: August 17, 2017 at 9:22:58 AM EDT
To: "Kandeepan, Ken (OFA)" <Ken.Kandeepan@ofina.on.ca>
Cc: "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.

Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.

- The last sentence in the opening italics that "the 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" has been deleted.
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- A concept of "any other discriminatory action including OEB Orders has been introduced.
- The Guarantee wording includes the word "assume" as opposed to just "pay".
- Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss

the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not

asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman <Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>

Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

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Thanks

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From: Ronald Kwan
To: Anna Strathy
Subject: RE: FHP TB submission
Date: Friday, August 25, 2017 5:01:07 PM

Thanks Matt.

Ron

From: Anna Strathy
Sent: August-25-17 16:58
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: FHP TB submission

Yes, here is the "clean" updated copy, although there are still some margin comments relating to issues that are TBD.

I'll continue to encourage the relevant parties to resolve those next week where we can.

Matt

From: Ronald Kwan
Sent: Friday, August 25, 2017 4:06 PM
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Subject: RE: FHP TB submission

And would you send me the latest clean copy.

Thanks,
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To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
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Ok, thanks Ron.

I'll send it to Anthony and hopefully on Monday to the wider group (I'll cc Gadi when it goes out to the wider group).

Enjoy your weekend.

Matt

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> **Cc:** "Manning, Mike (OFA)" <Mike.Manning@ofina.on.ca>, "Whitfield, Tobias P. (MOF)" <Tobias.Whitfield@ontario.ca>, "Strathy, Anna (OFA)" <Anna.Strathy@ofina.on.ca>, "Kwan, Ronald (OFA)" <Ronald.Kwan@ofina.on.ca>, "Kim, John (OFA)" <John.Kim@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, "Yep, Carlos (OFA)" <Carlos.Yep@ofina.on.ca>, "Devine, James (OFA)" <James.Devine@ofina.on.ca>
> **Subject: RE: EXTERNAL – Revised Term Sheet & summary slides**
>
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> - The Guarantee wording includes the word "assume" as opposed to just "pay".
> - Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation

of the Financing Entity 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 commission??

- Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?
- Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I would not know f this has been passed on to Energy Legal; by OPG yet. Ken, would you know?

As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may

have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

> **From:** Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Date:** August 14, 2017 at 7:45:58 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Gadi Mayman

<Gadi.Mayman@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; 'Kim Marshall' <Kim.Marshall@ieso.ca>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY

Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

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From:	Gadi Mayman
To:	Carlos Yep; Ken Kandeepan; John Psinas; John Kim; Adam Prokop; Bruno Amara; "Kaitlin.Montgomery@ontario.ca"
Cc:	Anna Strathy; Mike Manning; Ronald Kwan; Scott Nelms (ENERGY); Karen Hughes (MGS); "Veinot, Cindy (TBS)"
Subject:	RE: Fair Hydro Plan - Provincial Support Agreement - Term Sheet <comments from TD>
Date:	Friday, April 28, 2017 11:26:13 AM

From the conversations that I've been involved with Blakes, Energy, TBS, OPG, etc., one of the challenges that they're trying to overcome is the perception of the banks providing advice to OPG that this is a securitization transaction, which, while it has many similarities, it is not. It seems that TD is also falling into this trap in their analysis, so it would be worthwhile to try to move them off of this perspective for their next round of advice on this, which will have to be in advance of next Tuesday morning when we'll be meeting with the Deputy and the Minister's office in advance of this item going to Fiscal Prep on Wednesday.

I understand where Susan and the TD team are going on this, but TD needs to take the Province's perspective on this, not come at it from the angle of how to structure this to make the financing as easy as possible. We will not, as many of you are aware from our previous discussions, provide anything except the skinniest possible guarantee that would make this financeable, while still ensuring that the appropriate accounting treatment is possible to be achieved.

Thanks,
Gadi

From: Carlos Yep
Sent: Friday, April 28, 2017 11:12 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Adam Prokop <Adam.Prokop@ofina.on.ca>; Bruno Amara <Bruno.Amara@ofina.on.ca>; 'Kaitlin.Montgomery@ontario.ca' <Kaitlin.Montgomery@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: Fair Hydro Plan - Provincial Support Agreement - Term Sheet <comments from TD>

Fyi

From: Thompson, Susan [mailto:Susan.Thompson@tdsecurities.com]
Sent: Friday, April 28, 2017 10:40 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>

Cc: Thom, Trevor <Trevor.Thom@tdsecurities.com>; Holloway, Harold <Harold.Holloway@tdsecurities.com>; Wolff, Michael <Michael.Wolff@tdsecurities.com>; Purkis, Brad <Brad.Purkis@tdsecurities.com>; Hilloowala, Maharukh <Maharukh.Hilloowala@tdsecurities.com>
Subject: Fair Hydro Plan - Provincial Support Agreement - Term Sheet

Mike, Jim, Carlos

Please see below for our comments on the draft term sheet for the Provincial Support Agreement. Let us know when you would like to discuss further. Also, please note that we have not sent the comments or the term sheet to Steve Ashbourne at Blakes. Please let us know if you would like us to do so.

Attached is a sample servicing guarantee for a general securitization transaction to provide examples of common features. Note that the sample guarantee is formatted for a corporate transaction and would have to be adjusted accordingly. Also attached is a brief description of the servicing obligations typically covered by a servicing guarantee.

In reviewing the term sheet, we believe that the Servicing Guarantee is narrow in scope.

- Not a conventional servicing guarantee for securitization transactions
- It may not be acceptable for the rating agencies, particularly if monthly remittances of collections from the LCDs are necessary.

As drafted, it solely allows for the appointment of a replacement servicer by the Guarantor upon the occurrence of a Servicer Default (due to breach of servicing performance).

- It does not cover any losses arising from a breach of the electricity vendors' servicing obligations (typical servicing obligations described in attachment)
- It would preclude the monthly remittance of collections by the LDS to IESO for deposit into the Trust's collection account.

Other Items of Consideration:

- Not typical for the Indenture Trustee to be obligated to provide any reporting to the Guarantor
- Confidentiality would be difficult to maintain for a public issuance. The guarantee is a material component of the transaction and will have to be disclosed in detail in the IM, and possibly posted as a material contract
- Consistent with other "AAA" transactions, performance under the guarantee is expected to occur promptly, typically within 2 business days for payment obligations
- Guarantee does not cover a market disruption and the inability to refinance existing due and maturing issuances (including ABCP)

Susan Thompson, MBA | Director | Government Finance | **TD Securities**
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From:	Ken Kandeepan
To:	Gadi Mayman; Ronald Kwan
Cc:	Christina Zhang; David McLean (MOF); Christopher Pearce (MOI); Gavin He
Subject:	RE: Financial Advisor
Date:	Friday, March 24, 2017 11:44:37 AM

Excellent Gadi, a perfect example of where the OFA's specialized knowledge adds substantial value.

Thanks

Ken K

-----Original Message-----
From: Gadi Mayman
Sent: Friday, March 24, 2017 11:33 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>; David McLean (MOF) <David.McLean@ontario.ca>; Christopher Pearce (MOI) <Christopher.Pearce@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>
Subject: FW: Financial Advisor

Mike's come up with a solution that won't cost us any extra money.

Gadi

-----Original Message-----
From: Gadi Mayman
Sent: Friday, March 24, 2017 11:20 AM
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

We do have an underwriting agreement with them already, which I'd suggest would cover this. Mike and I are in my office now, and his suggestion is that he will call TD and BMO today and ask them to come in for half an hour each early next week to discuss how they could provide value in this process. A bit of competition is probably a good idea, and Mike has narrowed it down to these two as the best options given that RBC and CIBC are already taken by OPG. Scott, would you be able to come over here for those discussions, and then between you and Mike, you can decide which of the two would be the best fit?

Gadi

-----Original Message-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Friday, March 24, 2017 11:17 AM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

Ok. Good point. Can we set up some sort of formal contract with them?

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: March 24, 2017 11:15 AM
To: Nelms, Scott (MOF); Manning, Mike (OFA)
Cc: Kennedy, Nancy (MOF)
Subject: RE: Financial Advisor

We pay TD plenty of commissions for underwriting our bonds, and those commissions are understood to also include providing other services to us, including advice, so I don't think that I'd consider this as free advice and don't see the need to pay more money to them beyond what we already pay.

Gadi

-----Original Message-----
From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: Friday, March 24, 2017 11:12 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Subject: RE: Financial Advisor

I talked this over with Serge. He is comfortable moving forward with one of the banks (maybe TD?). Although free advice sounds good, he was worried about perception and conflicts. His preference is to have Blakes procure their services. Any concerns with that approach?

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: March 24, 2017 10:41 AM
To: Mayman, Gadi (OFA); Nelms, Scott (MOF)
Cc: Kennedy, Nancy (MOF)
Subject: RE: Financial Advisor

Hi Gadi:
I think having dealer advice on our side would be beneficial. I expect that OPG will have us outgunned with the dealer input that they will be receiving. It would be quite easy for us to pick from our dealer syndicate (thinking TD or BMO or Scotia Capital) and hopefully benefit from the advice we would receive. This could be done very quickly (i.e., as early as next week) and I expect could be done at no cost. The larger dealers would have utilities and U.S. expertise which would be beneficial and also have good input into what investors will require going forward. After all, the major Canadian dealers will be the ones making markets and having the most expertise on the structure. They would likely be quite eager to provide us advice on this matter and get involved.
Mike

-----Original Message-----
From: Gadi Mayman
Sent: Friday, March 24, 2017 10:26 AM
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Financial Advisor

TD did the Muskrat Falls deal, and structured it in what, at the time, was the most cost-effective way of doing it, but I don't think there was any legislation involved so it didn't have the same complexities. I don't know if there's a particularly big difference between any of the six banks, and they'll all likely push for the most iron clad guarantee that we're able to give, so maybe my idea isn't a great one on reflection, and we should fall back on a Blair Franklin type. Mike, any thoughts?

In the end, it's really about what the accountants say is acceptable or not, so I'm not sure having a second opinion from a financial advisor is of as much value as a second opinion on the direction that E&Y is giving OPG.

Original Message
From: Nelms, Scott (MOF)
Sent: Friday, March 24, 2017 9:55 AM
To: Gadi Mayman
Cc: Nancy Kennedy (MOHLTC); Mike Manning
Subject: RE: Financial Advisor

Serge talked to Alan yesterday, and apparently Alan feels he is conflicted given his ongoing involvement with OPG. I will float the idea of going to the other banks, as a check. Is there one of the 4 that has a particularly strong team?

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: March 24, 2017 9:34 AM
To: Nelms, Scott (MOF)
Cc: Kennedy, Nancy (MOF); Manning, Mike (OFA)
Subject: Re: Financial Advisor

I'm not sure how much value added that any of these boutiques would provide. The people that know the markets are the investment bankers that are actually going to be part of the syndicate that will have to market, sell and trade these bonds. Why not have one of TD, Scotia, National or BMO provide this double-checking? If we're worried about the conflict that they are going to give advice that will make it easier to sell the bonds to ultimately make their life as syndicate members easier, then I can see the potential attraction of an advisor that isn't in that business, but why can't Alan be that guy? I don't see that any of those that you've named would provide better external advice to the Province than he would, unless we're concerned that he's too embedded with OPG, but I don't think so.

As for the names you've mentioned, Hansel, if that turns out to be the third one, is run by a lawyer which might be helpful, but I don't know if they know much about bonds, maybe that's where Bill Gula comes in, Blair Franklin definitely knows bonds, as Fred Mifflin used to be head of government Finance at BMO many years ago and they advised the Feds on Muskrat Falls, and I haven't heard of Origin.

I've added Mike, because he knows way more about the bond market and what investors will want than anyone we've talked about in this exchange, so he may have some ideas as to where the Province should go for external advice.

Hope that helps.

Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Friday, March 24, 2017 8:45 AM
To: Gadi Mayman
Cc: Nancy Kennedy (MOHLTC)
Subject: RE: Financial Advisor

Hi Gadi,

Energy and Blakes suggest that the Province needs its own financial advisor to test what we are hearing from OPG. As I understand it, there are some elements that OPG believes are requirements in the legislation. The Province would like someone with a market perspective (in addition to your team) that can test the need for each of those requirements as they arise. Given timing, they need someone who can be available in real time to provide this advice.

I will circle back as to whether that is Hansell and not Hanslep. Let me know if there are other names that you might suggest.

Scott

Sent with BlackBerry Work (www.blackberry.com)

From: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>
Date: Thursday, Mar 23, 2017, 5:57 PM
To: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Cc: Kennedy, Nancy (MOF) <Nancy.Kennedy@ontario.ca<mailto:Nancy.Kennedy@ontario.ca>>
Subject: Re: Financial Advisor

Hi Scott, what is it that we're looking for from a financial advisor? Is this to help with the structuring of OPG Trust's debt issuance? I know Blair Franklin, and they advised Canada on Muskrat Falls. I'm not familiar with Origin, and I don't know Bill Gula, but is that Hansell LLP, not Hanslep?

In any case, I'm not sure what any of them bring to the table beyond what the three banks already engaged would provide, with Alan and the OFA weighing in when their inevitable conflicts get in the way?

I'd be happy to discuss further to get more colour on what you're looking for.

Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Thursday, March 23, 2017 2:26 PM

To: Gadi Mayman
Subject: FW: Financial Advisor

Hi Gadi,

Have you had any dealings with the financial folks listed below? If so any thoughts?

Thanks,
Scott

Sent with BlackBerry Work (www.blackberry.com<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.blackberry.com&d=DwIF_g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=3CXvpkRBdXO8bo6dIvXPkZDYa_kYL1UPZc_YCOdjLsg&s=QjbgTIleYB-TAsaUYgd3FdIujgwRRK1DPI5zTAO82fU&e= >)

From: Imbrogno, Serge (ENERGY) <Serge.Imbrogno@ontario.ca<mailto:Serge.Imbrogno@ontario.ca>>
Date: Thursday, Mar 23, 2017, 1:13 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI) <Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>
Cc: Nelms, Scott (MOF) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>, Katona, Keley (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>
Subject: Financial Advisor

Hi,

I spoke with Alan Hibben. He's fully engaged on the file with OPG. He suggested three other firms/people -- Origin Financial, Blair Franklin, and Bill Gula (Hanslep LLP). Carolyn, suggest you chat with Judy if Blakes has worked with any of the above. Scott, you could talk to Gadi etc if he has some thoughts on the above as well.
Let's group after your chats.
Serge

Sent from my iPad

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From:	Reiss, Anthony (MOF)
To:	Anna Strathy; Keley Katona (ENERGY); Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Usman Zahid; Vivienne Skoberne (MOHLTC); Cengarle, John (MOF); Montgomery, Kaitlin (MOF)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, September 07, 2017 10:38:55 AM

Hi there,

The DMO's office is requesting materials. Do you know when you will expect to have program area sign-off ?

I would also need a contact from MOE corporate controllership as they will need to provide a package for sign-off for their DM and Minister.

Once I know what their scheduling is for approvals we can schedule the DM and Minister briefings.

I would need their signed package before we have our DM and Minister sign.

Just to give everyone a heads up and provide some context.

The CAO briefing is this Monday, the DM briefing is scheduled for September 12. Minister briefing is not scheduled yet.

At this point in time these look more like an information briefing than a signing briefing.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 7, 2017 8:50 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good morning,

Based on the input from Anthony and Malle, we'll proceed with this as a joint submission from Finance and Energy. As I understand from Keley, Energy is likely to be amenable.

Anthony, I will reach out to Energy once again for review and comment on the submission (after updating the current draft to reflect comments from Keley, Malle and Comms). Once we have Energy's comments, Keley has offered to share our CEO-signed submission with Energy's DMO to secure signatures.

Jonathan, FYI, there may be some coordination required between our two DMOs to coordinate the two Ministers' signatures. I understand from Anthony that we've been targeting September 14 for Minister approval.

Thanks, Anna

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, September 06, 2017 1:57 PM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

I think what you are suggesting with respect to joint signatures makes sense. Energy was aware that their Minister would need to sign the guarantee agreement and weren't opposed to signing other documents, they just wanted confirmation on what other signatures were required. We could perhaps add back the joint signature in the next round of the submission that gets circulated to the broader group, including energy.

Thanks,
Keley

From: Hanslep, Malle (MOF)
Sent: September 6, 2017 1:07 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>

Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Keley,

Just one point on the comment about the s. 28 approval. Section 28 also requires approval before seeking an OIC that would authorize a guarantee so whichever Minister is coming forward to obtain the OIC would have to seek the Minister of Finance's approval. If it is the Minister of Finance seeking the OIC, then a separate approval signed by the Minister is generally not required as the Minister is also impliedly approving under s. 28; however if only the Minister of Energy is seeking the OIC, then it would be required. Perhaps the outcome will be that both Ministers sign both the recommendation for the OIC, the TB submission and ultimately the guarantee agreement.

I noted the s. 28 approval point in particular because Torys raised it back in July in their response to the term sheet at that time, i.e. to ensure s. 28 approval was obtained so they may be looking for evidence that it has been obtained.

Thanks,

Malle

From: Katona, Keley (MOF)
Sent: September 6, 2017 12:27 PM
To: Strathy, Anna (OFA); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Usman Zahid; Skoberne, Vivienne (MOF); Cengarle, John (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

A few comments on the submission from us attached. With respect to your questions below around who signs the submission / recommends the OIC, I understand CQSD was looking into this. It would be helpful if we could confirm this for the next version of the submission so that ENERGY can be made aware if their Minister needs to sign.

Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting

yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the

guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)'

<Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From: Deena Padamadan
To: Ronald Kwan; John Kim
Cc: Usman Zahid
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 11:06:30 PM
Attachments: RE IESO credit facility.msg

Hi Ron & John,

The only rationale I sent to DMO was related to the IESO credit facility (attached).
I hadn't sent out the info in the emails with subject "questions" – just tracked it, since it seemed to be under discussion between both of you.

Hope this helps,
Deena

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 9:24 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi,

I thought Deena had sent it to the DMO, but I may be mis-recalling.

Ron

On Aug 30, 2017, at 8:32 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Would you like me to send this out?
>
> Sent from my iPhone
>
> On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:
>
> > Thanks John. Let's keep not being on the critical path or bottleneck.
> >
> > Ron
> >
> > On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:
> >
> > > Oh yes, that one. It was a very informal document….as attached.
> > >
> > > I can do up a note very quickly. I think it is a good idea to do

the September date. Just that I believe the bottleneck may occur in other ways still.

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 6:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi John.

I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
>
> Rational would be very simple. I can even give it over the phone to Anthony.
>
> John
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 30, 2017 5:08 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.
>
> I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means

November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should “Authorize”, maybe it’s not “Approve”

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I’m trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We’re referring to the agreement as a “support agreement” which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I’d sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE’s previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- Ultimately a question for

OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review

first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should “Authorize”, maybe its not “Approve”

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE’s previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What

process will be used to report it ? How often ?

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on

Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a “Provincial Support Agreement” as opposed to “Provincial guarantee” as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017

2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you

will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

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To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>;

Anna Strathy
<Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA)
<Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF)
<Anthony.Reiss@ontario.ca>;
Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the

expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be

disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF)

<Tobias.Whitfield@ontario.ca>;
Hosick, Sarah (TBS)
<Sarah.Hosick@ontario.ca>;
'Montgomery, Kaitlin (MOF)'
<Kaitlin.Montgomery@ontario.ca>;
Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact

me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From: Deena Padamadan []
To: Jonathan Tekle (CAB) [Jonathan.Tekle@ontario.ca]
Subject: RE: IESO credit facility
Date: Thursday, August 24, 2017 11:14:18
Attachment 1: BN - IESO Credit Facility Expedite Request.docx

---

Hi Jonathan,

Please find attached the requested rationale. Appreciate if you can let me know MO/DMO's decision/approach.

Thanks very much,

Deena

From: Tekle, Jonathan (MOF) [mailto:Jonathan.Tekle@ontario.ca]
Sent: Tuesday, August 22, 2017 12:26 PM
To: Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: IESO credit facility

Thanks, Deena.

In preparation for Marianne's return next week, we should work to provide rationale on the timing and urgency of this, e.g. What are the risks of not setting this up until the Minister returns early September?

Given the topic, I think the MO would want our Minister to review but will check with Marianne.

From: Deena Padamadan [mailto:Deena.Padamadan@ofina.on.ca]
Sent: August 22, 2017 10:26 AM
To: Tekle, Jonathan (MOF)

Subject: RE: IESO credit facility

Ron will be at Whitney today at 3pm and Hearst on Thursday at 9am.

From: Tekle, Jonathan (MOF) [mailto:Jonathan.Tekle@ontario.ca]
Sent: Tuesday, August 22, 2017 10:06 AM
To: Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FW: IESO credit facility

FYI - I meant Ron and Marianne returns on Monday.

From: Tekle, Jonathan (MOF)
Sent: August 22, 2017 9:49 AM
To: 'Deena Padamadan'
Subject: RE: IESO credit facility

Thanks – will Rob be around QP this week? Marianne will also be back early next week.

From: Deena Padamadan [mailto:Deena.Padamadan@ofina.on.ca]
Sent: August 22, 2017 9:45 AM
To: Tekle, Jonathan (MOF)
Subject: RE: IESO credit facility

Hi Jonathan,

Just a quick note – the team mentioned that it would be ideal to have the package signed early next week.

Thanks,

Deena

From: Tekle, Jonathan (MOF) [mailto:Jonathan.Tekle@ontario.ca]
Sent: Tuesday, August 22, 2017 9:27 AM
To: Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: RE: IESO credit facility

Hi Deena,

I received it and awaiting to chat with Ron for more details on urgency and risks with timelines. See attached.

Note: Minister Sandals is away this week.

Thanks,

Jonathan

From: Deena Padamadan [mailto:Deena.Padamadan@ofina.on.ca]
Sent: August 22, 2017 9:24 AM
To: Tekle, Jonathan (MOF)
Subject: IESO credit facility

Good morning Jonathan,

I got an inquiry from the team asking for a status update on the IESO credit facility approval? I believe it was dropped off with DMO yesterday morning.

Thanks,

Deena

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

ONTARIO FINANCING AUTHORITY CREDIT FACILITY TO THE INDEPENDENT ELECTRICITY SYSTEM OPERATOR TO SUPPORT THE FAIR HYDRO PLAN:

EXPEDITED REQUEST – PRESIDENT OF TREASURY BOARD AS ALTERNATE FOR MINISTER OF FINANCE DIRECTIVE FOR AN EXEMPTION FROM THE OFA LENDING POLICY INTERCEPT PROVISION

The Independent Electricity System Operator (IESO) requests the Ontario Financing Authority (OFA) to execute and put in place the OFA to IESO credit facility required for its role under the Ontario Fair Hydro Plan Act, 2017. On June 29, 2017, the Minister of Finance provided a Lending Directive to accommodate IESO's request.

As required by OFA's Lending Policy, the OFA is returning to request a Minister's direction to exempt from the requirement to include an intercept provision in the Ontario Fair Hydro Plan (OFHP) Credit Facility agreement, as well as the original credit facility agreement.

STATUS UPDATE

- IESO's treasury and pension staff has raised significant concerns about not having the OFHP credit facility in place by the end of August 2017:
  - A ratings agency, Moody's, has raised its concern that the $2 billion facility has not been put in place.
  - Moody's main concern relates to the rapid utilization of the existing $975M facility at a rate of about $200-250M per month (the existing facility is being used, as expected, by the IESO on an interim basis until the new facility is in place).
  - Given that the first bond issuance by OPG's Financing Entity is not expected until later in the fall, the timely execution of the OFA to IESO OFHP credit facility is of a significant concern.
    - OPG's financing entity would use the proceeds from the bond issuance, as well as financing from OPG and, indirectly, the Province as shareholder, to purchase the regulatory asset from IESO, which would use the proceeds to pay down the draws on the OFA credit facility.
  - The timely execution of the OFHP credit facility is also an important priority of the IESO management and Board of Directors, with the expectation that a credit agreement would be in place by the end of August 2017.

RECOMMENDED NEXT STEP

- Request obtaining the Intercept Exemption Directive from the President of Treasury Board, as alternate for the Minister of Finance.

Corporate and Electricity Finance Division
August 23, 2017

From: John Kim
To: Ronald Kwan
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 9:14:14 PM

Hi Ron,

On this and the IESO Intercept Exclusion Directive, I am wondering if I should reach out to our MO. I did follow up with Jonathan on the alternate signing but have not heard back.

Let me know pls.

John

From: John Kim
Sent: August-30-17 8:32 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Would you like me to send this out?

Sent from my iPhone

On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks John. Let's keep not being on the critical path or bottleneck.
>
> Ron
>
> On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Oh yes, that one. It was a very informal document….as attached.
> >
> > I can do up a note very quickly. I think it is a good idea to do the September date. Just that I believe the bottleneck may occur in other ways still.
> >
> > ---
> >
> > **From:** Ronald Kwan
> > **Sent:** Wednesday, August 30, 2017 6:08 PM
> > **To:** John Kim <John.Kim@ofina.on.ca>
> > **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> > **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
> >
> > Hi John.

I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
>
> Rational would be very simple. I can even give it over the phone to Anthony.
>
> John
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 30, 2017 5:08 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi,
>
> I thought a rationale was drafted. Did it get finalised and sent out?
>
> Ron
>
> Begin forwarded message:
>
> > **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> > **Date:** August 30, 2017 at 5:04:27 PM EDT
> > **To:** Gadi Mayman

<Gadi.Mayman@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Gadi,

CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.

Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

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We would need to share a copy soon with TBS

as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

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Sounds good, thanks Anthony.

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Hi Matt,

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You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
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Thanks,
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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
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Hopefully within the hour.

Matt

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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

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Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC

Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

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To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew

Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

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I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review.

You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

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This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

<CQSD Questions.docx>

From: John Kim
To: Ronald Kwan
Cc: Usman Zahid
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 6:28:12 PM
Attachments: CQSD Questions.docx

Oh yes, that one. It was a very informal document….as attached.

I can do up a note very quickly. I think it is a good idea to do the September date. Just that I believe the bottleneck may occur in other ways still.

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 6:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi John.

I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
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> Rational would be very simple. I can even give it over the phone to Anthony.
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I thought a rationale was drafted. Did it get finalised and sent out?

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Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
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> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
> **Sent:** Wednesday, August 30, 2017 3:08 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
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> Who is the legal lead on it ? Need that info as well.

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A MO to MO reach out is required and I need to support that with a rational.

Thanks,
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Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

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- Hoping energy can follow up on this, maybe in the next round.

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- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
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Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
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Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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Can you confirm the following 1 thru 3. I'm working on 4 and 5. If you have any questions please let me know.

Thanks,

Anthony

1) What is the urgency for tracking the September 26th board date?
   The first bond issue by OPG Financing Entity is expected the fall timeframe (around October/November). Once the guarantee is in place, the Financing Entity will require finalization of documentations, undertake activities such as investor road shows, etc. As a result, the September timeline can be considered to be on FHP's critical path.

2) Do you know if OFA has engaged the DMO/MO and if they are in agreement with tracking this board date?
   OFA staff are of the understanding that DMO/MO fully support the timely implementation of all aspects of the FHP and are kept well informed of developments related to the implementation of the FHP, including this item.

3) Do we know when legal will be signing off on the submission?
   Yes, both MOF Legal and Energy Legal will be signing off on the submission, as legal staff are involved in reviewing the term sheet and as part of the normal sign-off process.

4) What are the expectations around engaging/seeking MOE Minister signoff/agreement?
   OFA staff understand that as contemplated under the Ontario Fair Hydro Plan Act, both Ministers would have to agree to the guarantee following an Order-in-Council. Energy staff are preparing to brief the Minister of Energy in the week of August 28, 2017.

5) Has TBS indicated whether or not a MO-to-MO reach out will be required since this is blowing the 3-week rule?
   While OFA staff are not aware of any discussions about the MO-to-Mo outreach to-date, it would be reasonable to assume that all MO's involved are aware of this item and the timeline involved.

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To:	Ronald Kwan
Cc:	Usman Zahid
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 5:36:33 PM

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Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:01 PM

To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

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This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From: John Kim
To: Ronald Kwan
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Tuesday, August 22, 2017 10:44:01 AM
Attachments: TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017_Markup2.doc

---

Hi Ron,

Comments and markups look fine to me. I had a minor edit and are doing reviews on the IOD and accumulated debt numbers, as well as reaching out to Tim C's area.

Thanks,

John

From: Ronald Kwan
Sent: Monday, August 21, 2017 3:51 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi John,

I started a markup. Please review and let's aim to send something back tomorrow.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-17-17 14:47
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 17, 2017 12:52 PM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner
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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair H~~h~~ydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2R1]: I think in the past we have discussedthat the Province would just be making the payments.

On the call with OPG last week, it was discussed if the Province would be taking over the whole sub, and thus all its obligations, and I thought we set that possibility aside, though a government in the future could look at broader optins, which we would need to assess at that time.

Commented [RK3]: Wouldn't it be better to write out the name of the Act in full?

Commented [MOF LSB4]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK5R4]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [MOF LSB6]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK7R6]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

guarantee.

Commented [MOF LSB8]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of

Commented [MOF LSB9]: This is the short title of the Act.

Commented [MOF LSB10]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB11]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB12]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB13]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [RK14R13]: Please provide revised wording.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability wouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt wouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount an amount equal to the weighted average cost ofof the debt interest servicing for the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB15]: OPCD to review

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [MOF LSB16]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK17R16]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck--- but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [MOF LSB18]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK19R18]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB20]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

guarantee.

APPENDIX

[Insert Final Term Sheet]

From:	Ronald Kwan
To:	John Kim
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Monday, August 21, 2017 3:50:59 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017_Markup.doc

Hi John,

I started a markup. Please review and let's aim to send something back tomorrow.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: August-17-17 14:47
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by ~~to~~ one or more financing entities established by Ontario Power Generation Inc. ~~OPG Financing Entities established to perform under~~ pursuant to s. 22 of the ~~Ontario~~ Fair H~~h~~ydro ~~Plan~~ Act, 2017 ("OPG Financing Entities") ~~and such entity or entities prospective debt holders~~, that, under certain circumstances as set out in the guarantee, the Province would pay when due amounts in respect of ~~assume~~ the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a ~~provincial~~ guarantee, to be authorized by Order in Council ~~as contemplated~~ under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act*, 2017 in ~~to~~ respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to~~that~~ Cabinet ~~approve~~ an Order in Council, ~~in accordance with~~ to be made under subsection 5(3) of the ~~Ontario~~ Fair Hydro Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2R1]: I think in the past we have discussedthat the Province would just be making the payments.

On the call with OPG last week, it was discussed if the Province would be taking over the whole sub, and thus all its obligations, and I thought we set that possibility aside, though a government in the future could look at broader optins, which we would need to assess at that time.

Commented [RK3]: Wouldn't it be better to write out the name of the Act in full?

Commented [MOF LSB4]: Not sure that it is TB's role to approve the guarantee given that it is to be authorized by OIC and that either the OIC or the two Ministers determine the terms, but we can leave this wording to a later time.

Commented [RK5R4]: Suggest discussing with TB analyst the form of the request to TB and the TB Minute.

Commented [MOF LSB6]: Assume that the draft OIC would be attached but depending on when this goes to TB, is there sufficient detail and certainty to draft the OIC. Will there be a maximum liability set out in the OIC – usually there is in the OIC as well as in the guarantee itself.

Commented [RK7R6]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amout determination, or cumualative annual fair adjustment amounts under the Act (including financing costs)?

guarantee.

Commented [MOF LSB8]: Is it expected that both Ministers will sign the recommendation on the OIC? Need to consider whether and how the s. 28 process would work. If Minister of Finance recommends the OIC and also signs the guarantee, it may be that a separate approval is not required.

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP)~~, which would~~to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years~~, starting in the summer of 2017~~. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the ~~*Ontario*~~ *Fair Hydro* ~~*Plan*~~ *Act, 2017*, (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account~~approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation~~. The Act provides for the IESO to sell the regulatory asset; i.e., ~~and~~ the right to recover those deferred amounts from specified consumers in the future. Under the Act, ~~a~~ Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of

Commented [MOF LSB9]: This is the short title of the Act.

Commented [MOF LSB10]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB11]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB12]: The wording in this section will need more work once we have reviewed the current term sheet.

Commented [MOF LSB13]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

Commented [RK14R13]: Please provide revised wording.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is providedgiven approved, the GovernmentProvince of Ontario takes on a contingent liability. The amount of the liability wouldill increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt wouldill be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost ofof the debt interest servicing for the debt payment obligations it has assumed under the guarantee.

Commented [MOF LSB15]: OPCD to review

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
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(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

Commented [MOF LSB16]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK17R16]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck--- but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

Commented [MOF LSB18]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK19R18]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

Commented [MOF LSB20]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	"Cindy.Veinot@ontario.ca"; Steen Hume (CAB); Keley Katona (ENERGY); Malle Hanslep (MOF); Carolyn Calwell (MCSS); Tom McKinlay (MAG)
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Deena Padamadan; Tobias P. Whitfield (MOF); "Hosick, Sarah (TBS)"; "Montgomery, Kaitlin (MOF)"; Matthew Breadner; Anthony Reiss (MGS)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Friday, August 18, 2017 4:06:42 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017).doc

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees to one or more OPG Financing Entities established to perform under the Ontario Fair hydro Plan Act and such entity or entities prospective debt holders, that, under certain circumstances, the Province would assume the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

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(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly.

To this end, immediate rate relief to eligible ratepayers is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to TB/MBC as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future. Under the Act, a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and

- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

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While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and

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APPENDIX

[Insert Final Term Sheet]

From:	Hanslep, Malle (MOF)
To:	Anna Strathy
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Deena Padamadan; Tobias P. Whitfield (MOF); Montgomery, Kaitlin (MOF); Matthew Breadner
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, August 17, 2017 2:47:33 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017)MOF LSB August 17 2017.doc

Hi all,

Here are my comments on the TB submission. As noted, it is at a fairly preliminary stage. At this point, I am sending them just to OFA or MOF staff. I will send them to Energy Legal separately for their information. Please let me know if you have any questions on any of them.

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 17, 2017 12:52 PM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner
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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

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- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;

Commented [MOF LSB5]: This is the short title of the Act.

Commented [MOF LSB6]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [MOF LSB7]: Depending on what the scope of the guarantee is, wording should be refined to describe it more accurately – i.e. it is a guarantee of the Financing Entity's debt obligations in favour of the holders of the debt or maybe it's broader than that.

Commented [MOF LSB8]: The wording in this section will need more work once we have reviewed the current term sheet.

- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB9]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is given ~~approved,~~ the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt will increase by an amount equal to the contingent liability at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee.

Commented [MOF LSB10]: OPCD to review

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [MOF LSB11]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of

the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB12]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB13]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	"Cindy.Veinot@ontario.ca"; Steen Hume (CAB); Keley Katona (ENERGY); Malle Hanslep (MOF); Carolyn Calwell (MCSS); Tom McKinlay (MAG)
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Deena Padamadan; Tobias P. Whitfield (MOF); "Hosick, Sarah (TBS)"; "Montgomery, Kaitlin (MOF)"; Matthew Breadner
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, August 17, 2017 1:44:19 PM
Attachments:	TB20 Submission_Provincial Guarantee_v3 (08172017).doc

Looping in Carolyn and Tom.

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority

1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees to one or more OPG Financing Entities established to perform under the Ontario Fair hydro Plan Act and such entity or entities prospective debt holders, that, under certain circumstances, the Province would assume the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly.

To this end, immediate rate relief to eligible ratepayers is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to TB/MBC as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future. Under the Act, a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and

- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the guarantee is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all obligations of the Financing Entity are fully discharged.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt will increase by an amount equal to the contingent liability at that point in time. The Province's interest payments will also increase by an amount equal to the weighted average cost of the debt it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

It is important to note that, if the guarantee is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and

interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee.

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	Keley Katona (ENERGY); Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Anthony Reiss (MGS); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Usman Zahid; Vivienne Skoberne (MOHLTC); Cengarle, John (MOF); Montgomery, Kaitlin (MOF)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, September 07, 2017 8:50:21 AM

Good morning,

Based on the input from Anthony and Malle, we'll proceed with this as a joint submission from Finance and Energy. As I understand from Keley, Energy is likely to be amenable.

Anthony, I will reach out to Energy once again for review and comment on the submission (after updating the current draft to reflect comments from Keley, Malle and Comms). Once we have Energy's comments, Keley has offered to share our CEO-signed submission with Energy's DMO to secure signatures.

Jonathan, FYI, there may be some coordination required between our two DMOs to coordinate the two Ministers' signatures. I understand from Anthony that we've been targeting September 14 for Minister approval.

Thanks, Anna

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, September 06, 2017 1:57 PM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

I think what you are suggesting with respect to joint signatures makes sense. Energy was aware that their Minister would need to sign the guarantee agreement and weren't opposed to signing other documents, they just wanted confirmation on what other signatures were required. We could perhaps add back the joint signature in the next round of the submission that gets circulated to the broader group, including energy.

Thanks,
Keley

From: Hanslep, Malle (MOF)
Sent: September 6, 2017 1:07 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Keley,

Just one point on the comment about the s. 28 approval. Section 28 also requires approval before seeking an OIC that would authorize a guarantee so whichever Minister is coming forward to obtain the OIC would have to seek the Minister of Finance's approval. If it is the Minister of Finance seeking the OIC, then a separate approval signed by the Minister is generally not required as the Minister is also impliedly approving under s. 28; however if only the Minister of Energy is seeking the OIC, then it would be required. Perhaps the outcome will be that both Ministers sign both the recommendation for the OIC, the TB submission and ultimately the guarantee agreement.

I noted the s. 28 approval point in particular because Torys raised it back in July in their response to the term sheet at that time, i.e. to ensure s. 28 approval was obtained so they may be looking for evidence that it has been obtained.

Thanks,

Malle

From: Katona, Keley (MOF)
Sent: September 6, 2017 12:27 PM
To: Strathy, Anna (OFA); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Usman Zahid; Skoberne, Vivienne (MOF); Cengarle, John (MOF); Montgomery, Kaitlin (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

A few comments on the submission from us attached. With respect to your questions

below around who signs the submission / recommends the OIC, I understand CQSD was looking into this. It would be helpful if we could confirm this for the next version of the submission so that ENERGY can be made aware if their Minister needs to sign.

Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet

to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the

Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a “Provincial Support Agreement” as opposed to “Provincial guarantee” as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We’re looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Thank you, Anna

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416.325.8032 | anna.strathy@ofina.on.ca

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From:	Katona, Keley (MOF)
To:	Malle Hanslep (MOF); Anna Strathy
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Anthony Reiss (MGS); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Usman Zahid; Vivienne Skoberne (MOHLTC); Cengarle, John (MOF); Montgomery, Kaitlin (MOF)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, September 06, 2017 1:57:28 PM

Hi Malle,

I think what you are suggesting with respect to joint signatures makes sense. Energy was aware that their Minister would need to sign the guarantee agreement and weren't opposed to signing other documents, they just wanted confirmation on what other signatures were required. We could perhaps add back the joint signature in the next round of the submission that gets circulated to the broader group, including energy.

Thanks,
Keley

From: Hanslep, Malle (MOF)
Sent: September 6, 2017 1:07 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Cengarle, John (MOF) <John.Cengarle@ontario.ca>; Montgomery, Kaitlin (MOF) <Kaitlin.Montgomery@ontario.ca>
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I'm also copying the broader group from the OFA here to keep everyone in the loop.

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Sent: Wednesday, September 06, 2017 8:31 AM
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Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

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Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
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Thank you, Anna

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Special Policy Advisor to CEO
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1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, September 06, 2017 12:57:34 PM

Hi Anna,

We are working on a draft OIC which will include some points of decision. If the OIC does not contain a maximum liability, it may be useful to include in the TB submission some commentary on how the two Ministers will limit the Province's exposure in determining the terms and conditions and maximum liability in the guarantee agreement.

We also took a look at the TB submission again and in terms of updating content, should it be updated to reflect the most recent draft that was circulated by John Kim to Steen Hume last evening? This is a clean version of the draft dated August 29, 2017 which reflected MOE/OFA Comments. I don't know what the status of that version is and whether it has been sent to OPG yet.

Thanks.

Malle

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
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Hi Malle,

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I'm also copying the broader group from the OFA here to keep everyone in the loop.

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Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, September 06, 2017 12:27:23 PM
Attachments:	TB20 Submission_Provincial Support Agreement_V4 GBED comments.docx

Hi Anna,

A few comments on the submission from us attached. With respect to your questions below around who signs the submission / recommends the OIC, I understand CQSD was looking into this. It would be helpful if we could confirm this for the next version of the submission so that ENERGY can be made aware if their Minister needs to sign.

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Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas;

Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
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Matt Breadner on behalf of Anna Strathy

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Sent: Friday, August 18, 2017 4:07 PM
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416.325.8032 | anna.strathy@ofina.on.ca

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PROVINCIAL SUPPORT AGREEMENT TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the support agreement, the Province would pay when due amounts in respect of the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a support agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) ~~Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

3. BACKGROUND:

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2]: Need to confirm direction.

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Commented [RK3]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amount determination, or cumulative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS4]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

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Commented [KC5]: My understanding is that such a business case is not required given the Minister of Finance is signing the agreement that increases the contingent liabilities.

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On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account. The Act provides for the IESO to sell the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the Act, Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

Commented [MOF LSB6]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [RK7]: I'd see if Energy can share its description on this.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a support agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Support Agreement:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair

Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the support agreement is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The support agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB8]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the support agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the support agreement is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the support agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [MOF LSB9]: OPCD to review

Commented [MOF LSB10]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK11]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

It is important to note that, if the support agreement is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB12]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK13]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a support agreement, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB14]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

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(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

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(c) ~~Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.~~

APPENDIX

[Insert Final Term Sheet]

From:	Anna Strathy
To:	Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Anthony Reiss (MGS); Keley Katona (ENERGY); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Usman Zahid; Vivienne Skoberne (MOHLTC)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, September 06, 2017 10:02:05 AM

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy

acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, August 31, 2017 10:43:54 AM
Attachments:	TB20 Submission_Provincial Support Agreement_V4 with comments.docx

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From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance

item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority

1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

PROVINCIAL SUPPORT AGREEMENT TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the support agreement, the Province would pay when due amounts in respect of the debt obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a support agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the Ontario Fair Hydro Plan Act, 2017 that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.

3. BACKGROUND:

Commented [MOF LSB1]: It would be useful to be able to narrow the scope of the guarantee wording. Currently it is not limited to principal and interest on the debt issued by the financing entity but could cover fees of service providers, rating agencies, etc. We should work toward making this clearer and if we could get copies of draft agreements such as the Master Trust Indenture, Supplemental Indenture, draft offering documents, any other agreements that would shed some light on how the debt instruments are issued and their terms and conditions this would be helpful.

Commented [RK2]: Need to confirm direction.

Commented [RK3]: In this case, could it be tied to the requirements of the Act, without a specific maximum, or tied to amount consistent to some determination under the Act, such as the fair allocation amount determination, or cumulative annual fair adjustment amounts under the Act (including financing costs)?

Commented [AS4]: Analysis on maximum liability still underway by energy, working with OPG (Matt).

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than their typical 20-year contract period and would be able to provide benefits for future ratepayers, and that the costs should be spread more fairly between current and future rates.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. This estimate is being updated and will be presented to [TB/MBC/Cabinet] as part of a report-back by the Ministry of Energy.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, the IESO is able to establish a variance account to record the deferral amounts arising from the difference between collections from current ratepayers and payment obligations to generators and conservation, and to create a regulatory asset to recover the balance in the variance account. The Act provides for the IESO to sell the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the Act, Ontario Power Generation Inc. as the Financial Services Manager under section 18, is authorized under section 22 to establish one or more financing entities that may incur funding obligations. Such a Financing Entity will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the eligible ratepayers.

Commented [MOF LSB5]: Might be helpful to include more information about OPG developing the Financing Plan, what funding obligations are, etc.

Commented [RK6]: I'd see if Energy can share its description on this.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative, judicial and organizational risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a support agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Support Agreement:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair

Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

In the event the support agreement is triggered, the Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The support agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Commented [MOF LSB7]: Not sure it is correct that Province will "take over the obligations" – isn't the Province just going to pay as they come due? Also again note outstanding payments to service providers (whoever they might be) is broader than payments on the financing entities debt.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the support agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the support agreement is provided the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the support agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [MOF LSB8]: OPCD to review

Commented [MOF LSB9]: In general, this TB submission needs more information on:
-The amount of debt that will be issued and over what time period.
-The maximum amount that the Province will guarantee.
-Where the debt will be issued
-In order to describe the risk

Commented [RK10]: Could include Energy's curve from the March 2nd CabSub, as well as the interim update in the more recent LTEP deck---but would be subject to updates per Energy's anticipated forthcoming submissions cited above.

It is important to note that, if the support agreement is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [MOF LSB11]: Include of a discussion of the risk associated with the trigger events – what are the risks – are there legal risks regarding the legislation and whether a court might find it to be invalid for some reason – have legal opinions been obtained on this? Are some of these risks within the control of the government so can be mitigated in some way?

Commented [RK12]: We should get input from Energy on this, to be consistent with what is, or will be, in Energy submissions.

7. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a support agreement, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

Commented [MOF LSB13]: It may be the case that this is a more general approval and the 2 Ministers will determine the terms and condition in accordance with the authorization given to them by the OIC. It depends on how soon the actual wording of the guarantee can be confirmed as opposed to the draft term sheet – The province should not sign of commit to the term sheet as the province's authority comes from the OIC.

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

(c) Note that the ministry of Energy will also be submitting to the Minister of Finance a request for approval, under Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the support agreement.

APPENDIX

[Insert Final Term Sheet]

From:	Ronald Kwan
To:	Deena Padamadan; John Kim
Cc:	Usman Zahid
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 11:12:49 PM

Thanks Deena.

Ron

From: Deena Padamadan
Sent: August-30-17 11:06 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Ron & John,

The only rationale I sent to DMO was related to the IESO credit facility (attached).
I hadn't sent out the info in the emails with subject "questions" – just tracked it, since it seemed to be under discussion between both of you.

Hope this helps,
Deena

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 9:24 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi,

I thought Deena had sent it to the DMO, but I may be mis-recalling.

Ron

On Aug 30, 2017, at 8:32 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Would you like me to send this out?
>
> Sent from my iPhone
>
> On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

Thanks John. Let's keep not being on the critical path or bottleneck.

Ron

On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Oh yes, that one. It was a very informal document….as attached.
>
> I can do up a note very quickly. I think it is a good idea to do the September date. Just that I believe the bottleneck may occur in other ways still.
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 30, 2017 6:08 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi John.
>
> I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.
>
> Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?
>
> Ron
>
> On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Hi Ron,
> >
> > I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
> >
> > Rational would be very simple. I can even give it over the phone to Anthony.
> >
> > John

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 5:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it

doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ?

What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5

questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term

guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second

round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>;

Anthony Reiss (MGS)
<Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>;

James Devine
<James.Devine@ofina.on.ca>;
Carlos Yep
<Carlos.Yep@ofina.on.ca>;
Vivienne Skoberne (MOHLTC)
<Vivienne.Skoberne@ontario.ca>;
'stephanie.m.smith@ontario.ca'
<stephanie.m.smith@ontario.ca>;
Deena Padamadan
<Deena.Padamadan@ofina.on.ca>;
Tobias P. Whitfield (MOF)
<Tobias.Whitfield@ontario.ca>;
Hosick, Sarah (TBS)
<Sarah.Hosick@ontario.ca>;
'Montgomery, Kaitlin (MOF)'
<Kaitlin.Montgomery@ontario.ca>;
Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From:	Hanslep, Malle (MOF)
To:	Anna Strathy
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Anthony Reiss (MGS); Keley Katona (ENERGY); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Usman Zahid; Vivienne Skoberne (MOHLTC)
Subject:	RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, September 07, 2017 10:43:11 AM

Hi all,

Should the TB submission be marked up to reflect the revised term sheet that is being sent over to OPG?

Malle

From: Hanslep, Malle (MOF)
Sent: September 6, 2017 12:57 PM
To: Strathy, Anna (OFA)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

We are working on a draft OIC which will include some points of decision. If the OIC does not contain a maximum liability, it may be useful to include in the TB submission some commentary on how the two Ministers will limit the Province's exposure in determining the terms and conditions and maximum liability in the guarantee agreement.

We also took a look at the TB submission again and in terms of updating content, should it be updated to reflect the most recent draft that was circulated by John Kim to Steen Hume last evening? This is a clean version of the draft dated August 29, 2017 which reflected MOE/OFA Comments. I don't know what the status of that version is and whether it has been sent to OPG yet.

Thanks.

Malle

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from

others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony

Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

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This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	RE: Guarantee
Date:	Friday, April 21, 2017 3:32:27 PM

Sure.

The two sections in the legislation that would be relevant so far are:
p. 10 Section 5xx(3)) authorization for contracts generally – should probably be revised to refer to guarantee and made a statutory charge and also add some scope for the guarantee.
p. 28 section 37XX says that s. 28 of the FA does not apply with respect to any transaction…under this Act.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 3:29 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

I'm just finishing up with Scott. Can we start at 3:40?

From: Gadi Mayman
Sent: Friday, April 21, 2017 2:58 PM
To: Malle Hanslep (MOF); Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject: Re: Guarantee

Sure, that timing works for me if someone can set up a call-in number.

Gadi

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:53 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject: RE: Guarantee

Thank you.

Given timelines on this project, can we have a quick call on this today, maybe at about 3:30. I would just like find out what staff know and think about the proposal generally. Carolyn said that they would like comments on the legislation by noon on Sunday and pens down is next Friday.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:38 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

I think that some combination of Mike, Ron and Ken would make sense as the people at the OFA to speak with, so I've copied them on this response.

Gadi

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:35 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don't' know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of

course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance

416-326-7918

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From:	Anna Strathy
To:	Gadi Mayman; Malle Hanslep (MOF)
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	RE: Guarantee
Date:	Friday, April 21, 2017 3:05:34 PM

I can set that up. Meeting invite to follow with dial in details.

From: Gadi Mayman
Sent: Friday, April 21, 2017 2:59 PM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Michael Waterston (MOF) <Michael.Waterston@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Guarantee

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Gadi

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:53 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject: RE: Guarantee

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Sent: April 21, 2017 2:38 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

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From: Hanslep, Malle (MOF)

Sent: Friday, April 21, 2017 2:35 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

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Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	RE: Guarantee
Date:	Friday, April 21, 2017 2:53:37 PM

Thank you.

Given timelines on this project, can we have a quick call on this today, maybe at about 3:30. I would just like find out what staff know and think about the proposal generally. Carolyn said that they would like comments on the legislation by noon on Sunday and pens down is next Friday.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:38 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

I think that some combination of Mike, Ron and Ken would make sense as the people at the OFA to speak with, so I've copied them on this response.

Gadi

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:35 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Just resending because I had the wrong email for Anna.

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

Hi Gadi, Anna,

We had a call with Carolyn Calwell and Paul Johnson at Energy Legal.

Please find attached a summary description of the guarantee for a number of obligations related to the proposed transaction that is being requested by OPG's investment dealers. There are 2 guarantees being requested: a guarantee of payment in certain situations as well as a performance guarantee. Although the Province has provided payment guarantees in the past, I am not aware of the Province provided guarantees of performance so this would be a new type of guarantee. We understand that these guarantees would

have to be authorized by the proposed legislation so the wording of the authorizing sections needs to be worked on. Right now the section is very general and doesn't yet include the word "guarantee". Also there should be some wording around the type or scope of the guarantee or what it is in relation to. As well, I am assuming that payment under the guarantee would have to be a charge on the CRF in order to provide sufficient support. I am not sure whether the Province's liability under these guarantees can be capped. Also I understand there is a section in the proposed legislation indicating s. 28 FAA does not apply so this is something for us to consider too.

I understand that Tory's (OPG's counsel) is working on a first draft of the guarantee, but it does not appear that the scope of the guarantee would be settled before legislation is introduced.

I don't' know if you have seen the attached document previously. Who would you like us to speak to at the OFA about this proposal?

Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Malle

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Carolyn

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Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

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Thanks!

Michael

Michael Waterston
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Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	RE: Guarantee
Date:	Friday, April 21, 2017 2:40:00 PM

Thank you.

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:39 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

This is the guarantee that the Federal government gave to Newfoundland Hydro (Nalcor) for the Muskrat Falls debt issue.

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:37 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Gadi: Also Carolyn mentioned a Nalcor guarantee which might be similar to what is being requested here?

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:36 PM
To: Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

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Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Malle

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Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

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Cc: Hanslep, Malle (MOF)
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Thanks!

Michael

Michael Waterston
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Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc:	Michael Waterston (MOF)
Subject:	RE: Guarantee
Date:	Saturday, April 22, 2017 10:32:27 AM

Hi Gadi,

I was thinking about the approach further and I think it would be best if I write to Len Hatzis (legal director at TBS) and Carolyn (so she is aware) first to let Len know the background that the DM of TBS is in favour of the Minister of Finance signing any required guarantee (although maybe he is well aware of this already) and also MOF/OFA view that we shouldn't exempt generally transactions under the new proposed Act from s. 28.
Then Len can let me know which TBS counsel are working on it as I think that it may be Nick and Paul but don't know for sure and don't know what their involvement on this file has been and I don't think I should send the email to TBS without letting Carolyn know.

]Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April-21-17 8:07 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks, Malle, if you wouldn't mind sharing it with Nick or Paul, that'd be great.

Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 7:54:48 PM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Michael Waterston (MOF)
Subject: Re: Guarantee

Hi Gadi

I think that would be fine. I don't know who in particular at TBS legal might be looking at this although it might be Nick Smook and Paul Kaufman

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Gadi Mayman
Sent: Friday, April 21, 2017 19:05
To: Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks. Just a question, would it make sense to share your response to Energy Legal with TB Legal, as they have an interest in s28 of the FAA, and given that their Deputy and Associate Deputy expresses strong views on the need for the Minister of Finance to hold responsibility for the guarantee?

Gadi

From: Whitfield, Tobias P. (MOF)
Sent: Friday, April 21, 2017 5:23 PM
To: Gadi Mayman; Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning

Cc: Malle Hanslep (MOF); Michael Waterston (MOF)
Subject: FW: Guarantee

Please see below our response to Energy Legal on the guarantee provisions, and attached our first draft of a provision for the legislation. We will let you know what the response is from Energy as they consider their draft over the weekend.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: April 21, 2017 5:20 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

We have discussed this with the OFA, and we have endeavoured to provide a provision that we think should allow the financial guarantee being contemplated. Please let us know if you think it provides the necessary scope for what would be required to meet the Province's needs. We deleted the existing provision, although if you think that more general contractual authority is needed, something else could be considered. However, we don't think that it is appropriate to have a statutory appropriation for such general indemnity and guarantee provisions.

We would expect that the guarantee would be capped and only provide for the repayment of the principal and interest of the debt securities of the financial asset owner, and that would usually be done in the OIC.

We don't have any experience with performance guarantees. Is there a need for the Minister of Energy to require performance by the LDCs? We were also wondering if Blakes or another party involved in these discussions might have an example of what is being considered.

We also removed the exemption from s. 28 of the FAA. We have discussed this with OFA staff, and given the importance and breadth of this Act and Program, it doesn't seem appropriate to exempt the entire Act from s. 28 of the FAA.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
Phone: 416-325-1456

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : https://urldefense.proofpoint.com/v2/url?u=http-3A__www.leg.state.fl.us_Statutes_index.cfm-3FApp-5Fmode-3DDisplay-5FStatute-26Search-5FString-3D-26URL-3D0300-2D0399_0366_Sections_0366.95.html-5Bleg.state.fl.us-5D&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=tFAAgRQTU0s9wAbu3-s9O6A8WaORM-zWr6qqj-3TfRk&s=GxEbjnHtLM-1g7mwTF12PJe_FGp5ys-wfJS6Hfssvqo&e= <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.leg.state.fl.us_Statutes_index.cfm-3FApp-5Fmode-3DDisplay-5FStatute-26Search-5FString-3D-26URL-3D0300-2D0399_0366_Sections_0366.95.html&d=DwMFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=Y_fkJeRoJZD-LzAJEPnXaFZu2UhWImljUPa5aePQXvI&s=1HUfd1nbfvUi59LhqOORa7t3LtNdTaqJrkvGEtCXtac&e=> .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
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Michael Waterston
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Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Mike Manning
To:	Gadi Mayman; Malle Hanslep (MOF); Michael Waterston (MOF)
Cc:	Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject:	RE: Nalcor: Request for Financing document
Date:	Tuesday, April 25, 2017 9:45:27 AM

Contacted TD & working on it.
Mike

From: Gadi Mayman
Sent: Tuesday, April 25, 2017 9:42 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Re: Nalcor: Request for Financing document

Mike, I assume that TD would have the schedules, as they've just submitted their RFP response for the new financing. Given that they're our advisor on the fair hydro plan, could you ask them for copies of the schedules?

Thanks,
Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Tuesday, April 25, 2017 9:23:01 AM
To: Gadi Mayman; Michael Waterston (MOF)
Cc: Mike Manning; Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Hi Gadi,

This document is a newer one dated 2017 and is a request for financing. There are a number of schedules referenced in it (see the second page of the index) but the schedules are not attached. I wonder if it would be possible to obtain them as it would be very helpful to understanding the scope of the guarantee proposed in it. Schedule 1 is the Form of Canada Guarantee and there are some other schedules such as Form of Canada Guarantee Opinion Letters etc.

The one I found was from an earlier transaction in 2012.

Thanks.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:58 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Manning, Mike (OFA); Kandeepan, Ken (OFA); Strathy, Anna (OFA); Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF)
Subject: Fw: Nalcor: Request for Financing document

I don't know if this is the same document that you just sent, Malle, but this is the description of the Federal Guarantee.

From: Stewart, Rob (FIN) <rob.stewart@canada.ca>
Sent: Wednesday, April 19, 2017 3:43 PM
To: Gadi Mayman
Subject: FW: Nalcor: Request for Financing document

Hi Gadi,

Without spending too much time on it, I gather that the guarantee we have provided simply entails Canada talking over payment of the cashflows on the bonds (see sections 2.2-2.3). Hope this helps.

Nice talking to you.

Rob

Rob Stewart
Associate Deputy Minister | Sous-ministre délégué
Department of Finance Canada | Ministère des Finances Canada
90 Elgin St., Ottawa, Canada K1A 0G5
Rob.Stewart@canada.ca
Telephone | Téléphone 613-369-3878
Government of Canada | Gouvernement du Canada

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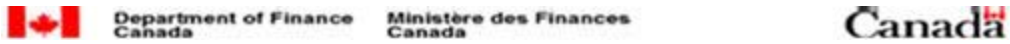
From: Moreau, Nicolas (FIN)
Sent: April-19-17 3:01 PM
To: Stewart, Rob (FIN)
Subject: Nalcor: Request for Financing document

Rob,

As requested,

Nic

Nicolas Moreau
Director | Directeur
Funds Management Division | Division de la gestion des fonds
Financial Sector Policy Branch | Direction de la politique du secteur financier
Department of Finance Canada | Ministère des Finances Canada
Ottawa, Canada K1A 0C6
Nicolas.Moreau@canada.ca
Telephone | Téléphone 613-369-5613
Facsimile | Télécopieur 613-369-3922
Government of Canada | Gouvernement du Canada



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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Mike Manning; Michael Waterston (MOF)
Cc:	Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject:	RE: Nalcor: Request for Financing document
Date:	Tuesday, April 25, 2017 11:05:35 AM

Thanks Gadi. This will impact the drafting of the legislative provision a bit.

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 25, 2017 10:48 AM
To: Manning, Mike (OFA); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Kandeepan, Ken (OFA); Strathy, Anna (OFA); Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Nalcor: Request for Financing document

It was just agreed at the weekly meeting on rate mitigation that both Ministers would sign the guarantee.

From: Mike Manning
Sent: Tuesday, April 25, 2017 9:45 AM
To: Gadi Mayman; Malle Hanslep (MOF); Michael Waterston (MOF)
Cc: Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Contacted TD & working on it.
Mike

From: Gadi Mayman
Sent: Tuesday, April 25, 2017 9:42 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Re: Nalcor: Request for Financing document

Mike, I assume that TD would have the schedules, as they've just submitted their RFP response for the new financing. Given that they're our advisor on the fair hydro plan, could you ask them for copies of the schedules?

Thanks,
Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Tuesday, April 25, 2017 9:23:01 AM
To: Gadi Mayman; Michael Waterston (MOF)
Cc: Mike Manning; Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Hi Gadi,

This document is a newer one dated 2017 and is a request for financing. There are a number of schedules referenced in it (see the second page of the index) but the schedules are not attached. I wonder if it would be possible to obtain them as it would be very helpful to understanding the scope of the guarantee proposed in it. Schedule 1 is the Form of Canada Guarantee and there are some other schedules such as Form of Canada Guarantee Opinion Letters etc.

The one I found was from an earlier transaction in 2012.

Thanks.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:58 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Manning, Mike (OFA); Kandeepan, Ken (OFA); Strathy, Anna (OFA); Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF)
Subject: Fw: Nalcor: Request for Financing document

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From:	Anna Strathy
To:	Ronald Kwan
Cc:	Gadi Mayman
Subject:	RE: Next Round Hydro Quebec
Date:	Tuesday, August 15, 2017 2:47:48 PM

Hi Ron – is this the email you were referring to? I don't see the mention in the email thread of a Minister's briefing – just the mini-FPC that is happening tomorrow at 11am.

From: Anna Strathy
Sent: Thursday, August 03, 2017 10:48 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: RE: Next Round Hydro Quebec

Hi Ron,

August 16 at 12:00pm? Yes, he can be available.

Anna

From: Ronald Kwan
Sent: Thursday, August 03, 2017 10:42 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: Next Round Hydro Quebec

Hi Anna,

Does Gadi have this time in the calendar available?

Ron

From: Nelms, Scott (MOF) [mailto:Scott.Nelms@ontario.ca]
Sent: August-03-17 10:25
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Next Round Hydro Quebec

Fyi – see below. I passed this along to the MO as well.

From: Schlaepfer, Martin (ENERGY)
Sent: August 3, 2017 10:18 AM
To: Hume, Steen (ENERGY); Nelms, Scott (MOF)

Cc: Armstrong, Hillary (ENERGY)
Subject: FW: Next Round Hydro Quebec

FYI, MO is asking CO that we add the Provincial Guarantee to our list of topics to cover with PO on the 16th.

We'll need to think about what a briefing product could look like and who would lead it. Perhaps this is something we could discuss at our RMI meeting this afternoon.

Martin

From: Teliszewsky, Andrew (ENERGY)
Sent: August 3, 2017 9:49 AM
To: Bromm, William (CAB)
Cc: Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Subject: Re: Next Round Hydro Quebec

Good Morning:

Had wanted to update folks planning for our time on 16 August.

We have those two hours and am now proposing that we attempt to cover three separate topics (3 x ~ 40 mins each).

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3. NEW : OFHP "Provincial Guarantee"

Note : the Provincial Guarantee is a core requirement of the debt / borrowing platform that is required for the dealers and rating agencies to confirm a score for this product so that OPG trust can go to market this fall.

Gadi has been doing battle with dealers on this and we think that 16th would be an appropriate milestone to brief decision makers on the results. Forward planning, this would require a TB/MBC conversation and the overall goal for that would be to have that done when Cabinet is around that last week of August.

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Hope this makes sense - let me know if this works for your end and then I'll make sure that I bring

TBS and MOF (Ali and Jason) up the curve and ensure they are ready for 16th in advance.

Many thanks, in advance.

Atel/

Andrew Teliszewsky

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Ministry of Energy
andrew.teliszewsky@ontario.ca
416-327-3550 (o)
416-436-6370 (m)

On Jul 28, 2017, at 3:44 PM, Bromm, William (CAB) <William.Bromm2@ontario.ca> wrote:

> Just want to update you on these meetings. Because of a few calendar conflicts, the meetings will have to be from 11 – 12 & 12 to 1 rather than 12 - 1 & 1 - 2. Hopefully the shift back by an hour won't be an issue.
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> **Sent:** Tuesday, July 25, 2017 7:43 PM
> **To:** Kwamena, Boafoa (CAB); Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
> **Cc:** Baker, Carys (ENERGY)
> **Subject:** Re: Next Round Hydro Quebec
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> Good Evening:
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> Asking please for CO to update our Outlook Calendars' accordingly.
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> Many thanks, as always!

Andrew Teliszewsky
416-327-3550

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To: Teliszewsky, Andrew (ENERGY); Greenberg, Martha (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
Cc: Baker, Carys (ENERGY)
Subject: RE: Next Round Hydro Quebec

Will do.

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Wednesday 16 August @ noon - 1pm.

If CO would be so kind as to organize calendar invitation would be terrific.

Many thanks, in advance.

Andrew Teliszewsky
416-327-3550

From: Teliszewsky, Andrew (ENERGY)
Sent: Friday, July 14, 2017 3:05 PM
To: Greenberg, Martha (CAB); Kwamena, Boafoa (CAB); Armstrong, Hillary (ENERGY); Schlaepfer, Martin (ENERGY)
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on Friday 21 July (one week from right now).

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andrew.teliszewsky@ontario.ca
416-327-3550 (o)
416-436-6370 (m)

From:	Anna Strathy
To:	Ronald Kwan
Cc:	Gadi Mayman; Mike Manning; Hresa Gavaris
Subject:	RE: Next Round Hydro Quebec
Date:	Thursday, August 03, 2017 10:48:30 AM

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416-436-6370 (m)

From:	Anna Strathy
To:	Ronald Kwan
Cc:	Gadi Mayman
Subject:	RE: Next Round Hydro Quebec
Date:	Tuesday, August 15, 2017 2:48:26 PM

Our emails crossed paths! Yes, definitely.

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 2:46 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Next Round Hydro Quebec

Hi Anna,

Apologies, tomorrow's meeting at 11 was the one I forwarded to you about. It would be good to be in the room on all items.

Ron

From: Ronald Kwan
Sent: August-03-17 10:42
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
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Atel/

Andrew Teliszewsky

Chief of Staff | Office of Hon. Glenn Thibeault
Ministry of Energy
andrew.teliszewsky@ontario.ca
416-327-3550 (o)
416-436-6370 (m)

From: Ronald Kwan
To: Anna Strathy
Subject: RE: OPG - FHP - Guarantee
Date: Tuesday, August 08, 2017 1:42:23 PM

Just noticing that.

He may not be interested in attending that anyways. Fairly straightforward and "housekeeping".

Ron

From: Anna Strathy
Sent: August-08-17 13:41
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

It wasn't in his calendar.

From: Ronald Kwan
Sent: Tuesday, August 08, 2017 1:40 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

Hi Anna,

I take it that Gadi is not planning to attend the Minister's Trillium Trust briefing at this time. I'll likely send staff to that briefing then.

Ron

-----Original Appointment-----
From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: August-08-17 13:35
To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian; 'Montgomery, Kaitlin (MOF)'; Anna Strathy
Cc: Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
Subject: OPG - FHP - Guarantee
When: August-10-17 14:00-15:00 (UTC-05:00) Eastern Time (US & Canada).
Where: OFA Offices, 1 Dundas St West., 14th Floor

When: Thursday, August 10, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: OFA Offices, 1 Dundas St West., 14th Floor

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*~*

Meeting Location Updated: 1 Dundas St., West, 14th floor.

~~Please come to OPG's office, 18th floor. We will meet you at the Glass Doors.~~

~~No pass required.~~

Thank you.

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From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: OPG - FHP - Guarantee
Date:	Tuesday, August 08, 2017 1:41:05 PM

It wasn't in his calendar.

From: Ronald Kwan
Sent: Tuesday, August 08, 2017 1:40 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

Hi Anna,

I take it that Gadi is not planning to attend the Minister's Trillium Trust briefing at this time. I'll likely send staff to that briefing then.

Ron

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From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: August-08-17 13:35
To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian; 'Montgomery, Kaitlin (MOF)'; Anna Strathy
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Meeting Location Updated: 1 Dundas St., West, 14 floor.

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From: Ronald Kwan
To: Anna Strathy
Subject: RE: OPG - FHP - Guarantee
Date: Tuesday, August 08, 2017 1:40:01 PM

Hi Anna,

I take it that Gadi is not planning to attend the Minister's Trillium Trust briefing at this time. I'll likely send staff to that briefing then.

Ron

-----Original Appointment-----
From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: August-08-17 13:35
To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian; 'Montgomery, Kaitlin (MOF)'; Anna Strathy
Cc: Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
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From:	Ken Kandeepan
To:	Anna Strathy
Cc:	Gavin He; Mike Manning; Carlos Yep; Ronald Kwan
Subject:	RE: OPG - FHP - Guarantee
Date:	Tuesday, August 08, 2017 8:49:46 AM

Thanks Anna, I will make myself available all day Thursday and Friday.

Ken k

From: Anna Strathy
Sent: Tuesday, August 08, 2017 8:48 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Gavin He <Gavin.He@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

Good morning,

I hope everyone had a nice long weekend. FYI, the meeting with OPG tomorrow afternoon will likely be rescheduled to accommodate an expanded group (i.e., Cindy Veinot, Steen Hume, possibly legal counsel). Please let me know if there are any days/times this week that you are not available.

Thanks, Anna

-----Original Appointment-----
From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: Wednesday, August 02, 2017 4:06 PM
To: HAHN PARKER Janet -TREASURY; Ken Kandeepan; Mike Manning; Carlos Yep; Ronald Kwan; Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian
Cc: Anna Strathy
Subject: Fw: OPG - FHP - Guarantee
When: Wednesday, August 09, 2017 2:15 PM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OPG, 700 University Avenue, 18th Floor, Treasury C/R

From: HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>

Sent: Wednesday, August 2, 2017 1:43 PM

To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian

Subject: OPG - FHP - Guarantee

When: Wednesday, August 09, 2017 2:15 PM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).

Where: OPG, 700 University Avenue, 18th Floor, Treasury C/R

Note: The GMT offset above does not reflect daylight saving time adjustments.

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<< File: disclaimer.html >>

From: Anna Strathy
To: Ken Kandeepan; Mike Manning; Carlos Yep; Ronald Kwan
Cc: Gavin He
Subject: RE: OPG - FHP - Guarantee
Date: Tuesday, August 08, 2017 8:48:28 AM

Good morning,

I hope everyone had a nice long weekend. FYI, the meeting with OPG tomorrow afternoon will likely be rescheduled to accommodate an expanded group (i.e., Cindy Veinot, Steen Hume, possibly legal counsel). Please let me know if there are any days/times this week that you are not available.

Thanks, Anna

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From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: Wednesday, August 02, 2017 4:06 PM
To: HAHN PARKER Janet -TREASURY; Ken Kandeepan; Mike Manning; Carlos Yep; Ronald Kwan; Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian
Cc: Anna Strathy
Subject: Fw: OPG - FHP - Guarantee
When: Wednesday, August 09, 2017 2:15 PM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: OPG, 700 University Avenue, 18th Floor, Treasury C/R

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Sent: Wednesday, August 2, 2017 1:43 PM

To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian

Subject: OPG - FHP - Guarantee

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<< File: disclaimer.html >>

From:	Anna Strathy
To:	Ronald Kwan
Subject:	RE: OPG - FHP - Guarantee
Date:	Tuesday, August 08, 2017 1:46:19 PM

Ok, thanks Ron.

From: Ronald Kwan
Sent: Tuesday, August 08, 2017 1:42 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

Just noticing that.

He may not be interested in attending that anyways. Fairly straightforward and "housekeeping".

Ron

From: Anna Strathy
Sent: August-08-17 13:41
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

It wasn't in his calendar.

From: Ronald Kwan
Sent: Tuesday, August 08, 2017 1:40 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: OPG - FHP - Guarantee

Hi Anna,

I take it that Gadi is not planning to attend the Minister's Trillium Trust briefing at this time. I'll likely send staff to that briefing then.

Ron

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From: HAHN PARKER Janet -TREASURY [mailto:j.hahnparker@opg.com]
Sent: August-08-17 13:35

To: Gadi Mayman; Scott Nelms (ENERGY); LEE John -TREASURY; RYFA Ken -TREASURY; 'Persaud, Donnie - Debt Capital Markets'; Benaiah, Ian; 'Montgomery, Kaitlin (MOF)'; Anna Strathy
Cc: Maciel, Andrew; Khan, Nur; Ken Kandeepan; Ronald Kwan
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~~*~*~*~*~*~*~*~*~*

Meeting Location Updated: 1 Dundas St., West, 14th floor.

~~Please come to OPG's office, 18th floor. We will meet you at the Glass Doors.~~

~~No pass required.~~

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From: Gavin He
To: Ronald Kwan
Subject: RE: Ontario Fair Hydro Plan
Date: Thursday, April 06, 2017 1:02:21 PM

Hi Ron,

Would you like me to add John to this meeting? If so, I will let Energy know.

Thanks,

Gavin He

-----Original Appointment-----
From: Calwell, Carolyn (ENERGY/MEDEI/MRI) [mailto:Carolyn.Calwell@ontario.ca]
Sent: Thursday, April 06, 2017 12:58 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Scott Nelms (ENERGY); Steen Hume (CAB); Tim Christie (ENERGY); Ronald Kwan; Veinot, Cindy (TBS); Hosick, Sarah (TBS); Kim.Marshall@ieso.ca; John.S.Lee@opg.com; Hilary Cox (ENE); Tobias P. Whitfield (MOF); Nadine Petsche (MOF); Gavin He; yolusoga@torys.com; Anthony.Martinello@ieso.ca; Brad.Purkis@tdsecurities.com; Rehob, James (ENERGY); Shear, Dan (ENERGY); Kacaba, Jennifer (ENERGY); Leslie.Wong@opg.com; 'MCAULEY Tyler -LAWDIV' (tyler.mcauley@opg.com); 'Michael.Boll@IESO.com'; JUDY.WILSON@blakes.com; Stephen.Ashbourne@blakes.com; Bryson.Stokes@blakes.com; DICKS, LINDSAY (LINDSAY.DICKS@blakes.com); Michael.Boll@IESO.ca
Cc: Mary Anne Aldred (MaryAnne.Aldred@oeb.ca); Martine.Band@ontarioenergyboard.ca; 'Martine Band'; 'Ramchandani, Rima'; 'Feldman, Michael'; 'Alan Hibben'; 'Mansoori, Nina'; 'Myers, Jonathan'; 'Hill, Krista'; 'Glenn Zacher'; 'Peter Hamilton'
Subject: FW: Ontario Fair Hydro Plan
When: Friday, April 07, 2017 10:00 AM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 199 Bay St. - 40th Floor, Blakes

Hi Everyone,

Please make sure your appropriate colleagues are included. If not, please inform Joseph Pau (Joseph.Pau@ontario.ca) and he will provide them with the invitation and forward their name to the Blakes security desk.

Thanks,

-----Original Appointment-----
From: Pau, Joseph (MEDG/MRIS) **On Behalf Of** Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 4, 2017 2:42 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Rehob, James (ENERGY); Shear, Dan (ENERGY); Kacaba,

Jennifer (ENERGY); Leslie.Wong@opg.com; 'MCAULEY Tyler -LAWDIV' (tyler.mcauley@opg.com); 'Michael.Boll@IESO.com'; JUDY.WILSON@blakes.com; Stephen.Ashbourne@blakes.com; Bryson.Stokes@blakes.com; DICKS, LINDSAY (LINDSAY.DICKS@blakes.com); Michael.Boll@IESO.ca
Cc: Mary Anne Aldred (MaryAnne.Aldred@oeb.ca); Martine.Band@ontarioenergyboard.ca; 'Martine Band'; 'Ramchandani, Rima'; 'Feldman, Michael'; 'Alan Hibben'; 'Mansoori, Nina'; 'Myers, Jonathan'; 'Hill, Krista'; 'Glenn Zacher'; 'Peter Hamilton'
Subject: Ontario Fair Hydro Plan
When: April 7, 2017 10:00 AM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 199 Bay St. - 40th Floor, Blakes

Update

This meeting has been shortened from 4:00pm to 2:00pm.

Hi Everyone,

This will be a meeting to discuss the Ontario Fair Hydro Plan (OFHP) and will include Blakes, Torys, OPG, IESO, and Ministry Counsel.

The meeting will be held at Blakes and the main contact on site will be Lindsay Dicks (416-863-4347 or Lindsay.Dicks@blakes.com). Please inform Lindsay if there will be additional people attending from your group because she will need to pass this information along to their security desk.

To the representatives from OPG and IESO, please forward this meeting invitation to your respective outside counsel for their attendance.

Any materials available for this meeting will be provided in a future update.

If you are unable to attend in person, please use the following conference call information:

Toll-free dial-in number: 1-866-633-1033

Local dial-in number: 416-212-8013

Conference ID: 3164921#

If there are any additional scheduling needs or updates, please contact Joseph Pau (416-326-1018).

Thanks,

From:	John Kim
To:	Ken Kandeepan; Anna Strathy
Cc:	Ronald Kwan; John Psinas; James Devine; Carlos Yep
Subject:	RE: Provincial Guarantee Fair Hydro Plan.docx
Date:	Tuesday, August 15, 2017 2:10:27 PM
Attachments:	Provincial Guarantee Fair Hydro Plan_CEFD-Markup.docx

Hi Ken, Anna,

Pls. see attached. I added to Ron's early markups as he's at Frost at the moment.

John

From: Ken Kandeepan
Sent: Tuesday, August 15, 2017 11:59 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Provincial Guarantee Fair Hydro Plan.docx

Hi All

As discussed pls find attached the one-pager, for those on the 14th floor if you have any comments/edits can you pls drop in to my office and let me know so that I can incorporate same in the master version of the note. For the third floor, feel free to provide your comments edits via email.

Thanks

Ken k

PROVINCIAL GUARANTEE FAIR HYDRO PLAN – ISSUES AND ~~NEXT STEPS~~OTHER FINANCING ISSUES

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Provincial Guarantee ~~–~~ OPG Proposed Draft Term Sheet Summary

OFA received the latest OPG proposed re-draft of a Provincial support agreement term sheet, which would provide a Provincial step-in protection for the Financing Entity's debt under an activation event.

Provincial Guarantee Activation Events:

- Decisions by the Legislative Assembly – Repeal, amendments to statute ~~and/or financing transaction agreements~~, adverse decisions of the courts and change in the organizational structure of IESO, adversely impacting the Financing Entity.

Guarantee:

- The Province to take over ~~the all of~~ the obligations of the Financing Entity including payments to service providers – trustees, auditors, rating agencies, etc. Provincial guarantee will continue until all obligations of the Financing Entity are discharged.

Commented [RK1]: Would it be important to note that there would, as such, be no penalty, fee, "make-whole" etc.

- Pending MOF Legal [and Blake's] review and additional drafting, OFA generally agree to the concept in the proposed draft. ~~[Insert bullet on status – e.g., generally agreed to in concept. Legal drafting to come.]~~

Commented [JK2]: Assuming this is OK with everyone.

Recommendation:

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- [Assuming we are moving ahead with the guarantee – pending MOF Legal's review.]

Other Discussions and Considerations

There also continue to be discussions on other aspects, such as what had been referred to as servicing or performance guarantees, and on the "warehousing" financing.

Commingling Risk:

- Add bullet to define the issue. Could note that this has been referred to in the past as a "performance guarantee" issue, as people in the briefing may recall that issue.

Commented [JK3]: Will leave this to Ken and Anna to draft as I have not been close to the 'other' discussion items.

- OPG proposes that IESO ~~to~~ would provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from the non-investment Grade LDCs over the next 45-60 days. IOPG estimates the L/C to be approximately $50 million.

Warehouse Takeout Risk:

- [Insert bullet to define the issue.]

Commented [JK4]: Same as above.

- Warehouse Default Event – failure to repay the warehouse facility at the end of the commitment term of 12 to 24 months.

Commented [RK5]: Likely should note the take-out periodicity too – every 3-6 months – which would indicate when an issue might become readily apparent.

-
- Incurs a cost to the ratepayer in the form of higher interest rates from the step –up pricing clause in the Financing Entity's agreement with the banks providing the warehouse facility.

Business Issues to be resolved:

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- IESO expressed reluctance on issuing either an L/C or assuming responsibility for the commingling risk. Counter to FHP direction to-date wrt IESO being relieved of a role once the regulatory asset is sold. Accounting would need to be considered.
- IESO to discuss internally and respond
  - ~~Potential legal issues – MOF and Energy Legal along with Blake's to review Term Sheet~~

Next Steps:

- MOF and Energy Legal along with Blake's to review Term Sheet
- Respond to OPG with issues
- Provide OPG with a timeline for the up-coming TB submission on the guarantee so that deadlines are established for resoling outstanding issues and completing a draft version of the guarantee.

Ontario Financing Authority
August 15, 2017

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From: John Kim
To: Ronald Kwan
Subject: RE: Provincial Guarantee Fair Hydro Plan.docx
Date: Tuesday, August 15, 2017 1:54:09 PM

Gadi said you and Ken should be at 1pm tomorrow. I am assuming that was the timeline for the big meeting. I will send the comments shortly.

From: John Kim
Sent: Tuesday, August 15, 2017 1:32 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Re: Provincial Guarantee Fair Hydro Plan.docx

I did let him know that comments are coming. He seems fine with that.

On Aug 15, 2017, at 1:29 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Had a chance to review?
>
> You should reply to Ken et al before the 1:30
>
> Room
>
> On Aug 15, 2017, at 1:10 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:
>
> > Hi John,
> >
> > I started a markup.
> >
> > Ron
> >
> > ---
> >
> > **From:** Ken Kandeepan
> > **Sent:** August-15-17 11:59
> > **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> > **Subject:** Provincial Guarantee Fair Hydro Plan.docx
> >
> > Hi All
> >
> > As discussed pls find attached the one-pager, for those on the 14th floor if you have any comments/edits can you pls drop in to my office and let me know so that I can incorporate same in the master version of the note.
> > For the third floor, feel free to provide your comments edits via email.

Thanks

Ken k

<Provincial Guarantee Fair Hydro Plan_CEFD-Markup.docx>

From: Ronald Kwan
To: John Kim
Subject: RE: Provincial Guarantee Fair Hydro Plan.docx
Date: Tuesday, August 15, 2017 1:10:41 PM
Attachments: Provincial Guarantee Fair Hydro Plan_CEFD-Markup.docx

---

Hi John,

I started a markup.

Ron

From: Ken Kandeepan
Sent: August-15-17 11:59
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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Thanks

Ken k

PROVINCIAL GUARANTEE FAIR HYDRO PLAN – ISSUES AND NEXT STEPS

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Provincial Guarantee ~~–~~ OPG Proposed Draft Term Sheet Summary

Provincial Guarantee Activation Events:

- Decisions by the Legislative Assembly – Repeal, amendments to statute and/or financing transaction agreements, adverse decision of the courts and change in the organization structure of IESO adversely impacting the Financing Entity.

Guarantee:

- The Province to take over the all of the obligations of the Financing Entity including payments to service providers – trustees, auditors, rating agencies, etc. Provincial guarantee will continue until all obligations of the Financing Entity are discharged.
- [Insert bullet on status – e.g., generally agreed to in concept. Legal drafting to come.]

Commented [RK1]: Would it be important to note that there would, as such, be no penalty, fee, "make-whole" etc.

Commingling Risk:

- Add bullet to define the issue. Could note that this has been referred to in the past as a "performance guarantee" issue, as people in the briefing may recall that issue.
- OPG proposes that IESO ~~to~~ would provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from the non-investment Grade LDCs over the next 45-60 days. IOPG estimates the L/C to be approximately $50 million.

Warehouse Takeout Risk:

- [Insert bullet to define the issue.]
- Warehouse Default Event – failure to repay the warehouse facility at the end of the commitment term of 12 to 24 months.
- Incurs a cost to the ratepayer in the form of higher interest rates from the step –up pricing clause in the Financing Entity's agreement with the banks providing the warehouse facility.

Commented [RK2]: Likely should note the take-out periodicity too – every 3-6 months – which would indicate when an issue might become readily apparent.

Business Issues to be resolved:

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- IESO expressed reluctance on issuing either an L/C or assuming responsibility for the commingling risk. Counter to FHP direction to-date wrt IESO being relieved of a role once the regulatory asset is sold. Accounting would need to be considered.
- IESO to discuss internally and respond
  - ~~Potential legal issues – MOF and Energy Legal along with Blake's to review Term Sheet~~

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Next Steps:

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- MOF and Energy Legal along with Blake's to review Term Sheet
- Respond to OPG with issues
- Provide OPG with a timeline for the up-coming TB submission on the guarantee so that deadlines are established for resoling outstanding issues and completing a draft version of the guarantee.

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Ontario Financing Authority

August 15, 2017

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From:	Anna Strathy
To:	Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Ronald Kwan
Cc:	Gadi Mayman
Subject:	RE: Provincial Guarantee Fair Hydro Plan.docx
Date:	Tuesday, August 15, 2017 3:05:24 PM
Attachments:	Provincial Guarantee and Other Financing Issues (OFA) 08152017.docx

Hi All,

Thank you to everyone for their input, and to Ken for drafting this document in such short order. Gadi approved the attached version – it will be circulated to OPCD, Energy and our DMO shortly.

Thanks, Anna

From: Ken Kandeepan
Sent: Tuesday, August 15, 2017 11:59 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Provincial Guarantee Fair Hydro Plan.docx

Hi All

As discussed pls find attached the one-pager, for those on the 14th floor if you have any comments/edits can you pls drop in to my office and let me know so that I can incorporate same in the master version of the note. For the third floor, feel free to provide your comments edits via email.

Thanks

Ken k

PROVINCIAL GUARANTEE AND OTHER FINANCING ISSUES

ISSUE

To support the Fair Hydro Plan, OPG is requesting that the Government of Ontario provide a guarantee to the OPG Financing Entity and prospective debt holders such that the funding obligations of the Financing Entity will be met by the Province under certain circumstances.

TERMS OF THE GUARANTEE

Events that would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments that adversely affect the OPG Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

Guarantee:

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers (i.e., trustees, auditors).
- The Provincial guarantee will continue until all obligations of the Financing Entity are fully discharged.

Recommendation:

- Pending review by MOF Legal, Energy Legal and external counsel (Blake's), recommend TB/MBC approve the terms of the Guarantee as set out in the term sheet and further detailed in the draft guarantee document to be provided by OPG.

OTHER FINANCING/ACCOUNTING RISKS TO BE RESOLVED

Commingling Risk:

- Refers to the risk associated with unrated/below investment grade Local Distribution Companies (LDCs) not remitting collections from ratepayers to the IESO.
- IESO to provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from these LDCs over the

next 45-60 days. OPG estimates the Letter of Credit to be approximately $50 million.
- IESO expressed concerns both from a mandate and accounting perspective on issuing either a Letter of Credit or assuming responsibility for the commingling risk.

Warehouse Takeout Risk:

- Refers to the risk associated with the Financing Entity unable to issue debt in order to pay down the short term financing provided by its banks.
- There may be potential costs to the ratepayer in the form of higher interest rates from the step–up pricing clause in the Financing Entity's agreement with the banks providing the short term financing.

NEXT STEPS

- MOF Legal, Energy Legal and external counsel (Blake's) to review term sheet and draft guarantee document
- OPG/IESO to consider outstanding financing/accounting issues
- TB/MBC decision on Provincial Guarantee (September TBC)

Ontario Financing Authority
August 15, 2017

From:	Gadi Mayman
To:	Mike Manning; Ken Kandeepan
Cc:	Christina Zhang; Ronald Kwan; Gavin He
Subject:	RE: Provincial Guarantee
Date:	Monday, February 27, 2017 2:34:12 PM

I agree with your perspective on this. The Newfoundland guarantee for the Churchill Falls dam is a good point that I'd forgotten about.
I'm copying Ron and Gavin, as they're preparing a slide for Energy on this.

Gadi

From: Mike Manning
Sent: Monday, February 27, 2017 2:29 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>
Subject: RE: Provincial Guarantee

Just a few random thoughts:

- I would think OPG borrowing with a guarantee is a game changer. As we've seen with Newfoundland, guarantees can be expensive, and I expect this one would be too, relative to Ontario's regular borrowing costs. If it is going on the Province's balance sheet, shouldn't that be done in the most efficient way. In addition, I'm surprised the Ontario borrowing and on-lending approach doesn't have more traction as it certainly provides more cost-savings potential, and this might definitely be required.
- I'm also unclear of the benefits of OPG direct borrowing, given that it appears to be direct government policy to me, and is anyone going to think otherwise? Again I don't have the full perspective and may be missing some of the rationale.

It would be great to discuss when you have the time.
Mike

From: Gadi Mayman
Sent: Monday, February 27, 2017 12:49 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Christina Zhang <Christina.Zhang@ofina.on.ca>
Subject: FW: Provincial Guarantee

Hi Mike,

Ken is familiar with what I'm asking about here, so either he or I could fill you in on more details if you'd like. The bottom line is that OPG has now determined, not surprisingly to me, that the debt that they issue to public markets for the GA smoothing option, would require a provincial guarantee. Not a full guarantee, they

pointed out this morning, but just a guarantee that investors would be made whole, and have all of their costs covered, if a future government were to change the legislation under which this structure would be created. To me, that is pretty much equivalent to a full guarantee, as that's likely the only way the system fails, and investors would take on any risk.

My question is why that guarantee, and therefore the diminishment of risk to investors, is treated differently from an accounting perspective than the simpler process of us just borrowing and on-lending to them.

Please let me know if you have any questions, or would like to discuss this further.

Thanks,
Gadi

From: Gadi Mayman
Sent: Monday, February 27, 2017 12:45 PM
To: HARTWICK Ken -FINANCE <ken.hartwick@opg.com>
Cc: 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>
Subject: Provincial Guarantee

Hi Ken, we all had to rush off to our next meetings following our meeting this morning, so we didn't get a chance to have a discussion about why a Provincial guarantee of all of OPG's debt related to the trust isn't a problem for the accounting treatment that we'd need to get to in order to make the GA smoothing plan work, while direct borrowing and on-lending from the Province would be, if it's greater than 49% of the total borrowing (actually 44% in your current model).

From a capital markets, investor and rating agency perspective, the guarantee is extremely likely to be lumped in with the rest of the Province's debt, and the guaranteed debt would be considered just as much of a provincial obligation as the rest of our debt, particularly in this case where the reason that the guarantee is needed is because investors will demand it in order to protect themselves from legislative amendments by a future government. For that reason, it could be hard to justify, from a capital markets or cost perspective, having OPG borrowing in its own name with a government guarantee, so is it possible to revisit the potential accounting treatment and determine whether, now that we've effectively moved to a guaranteed structure, we could just have the Province, through the OFA or OEFC, do all of the borrowing and on-lend to OPG? Is this something that you'd been planning to address in the accounting material that you're sending over today?

Thanks,
Gadi

From:	Gadi Mayman
To:	Mike Manning
Cc:	Ken Kandeepan; Ronald Kwan; Anna Strathy; James Devine; Carlos Yep
Subject:	RE: Provincial Protection and Assurances - Fair Hydro Plan
Date:	Tuesday, August 08, 2017 3:11:53 PM

Thanks, Mike. It'd be great if we could come to ground on this on Thursday and pretty much have it settled coming out of the meeting, but I'm not going to get that optimistic yet.

Gadi

From: Mike Manning
Sent: Tuesday, August 08, 2017 3:11 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Subject: Provincial Protection and Assurances - Fair Hydro Plan

Hi Gadi:
I talked to John Lee today regarding our upcoming meeting. His assessment is that the dealers will stick to the principles you outlined at the last meeting and provide some options for further consideration. John says the dealers are working on a one page summary that he will be able to send to us in advance of the meeting. He expects it will be more of a business issues meeting rather than a legal meeting. His goal will be to get clarity on the path going forward; understand the options and finalize a plan for moving forward. I expect the one pager may be available over the next day or so.

Mike

From:	Nelms, Scott (MOF)
To:	Ken Kandeepan; Gadi Mayman
Cc:	Anna Strathy; Hresa Gavaris; Mike Manning; Carlos Yep; Ronald Kwan
Subject:	RE: Provincial Support Agreement
Date:	Thursday, July 27, 2017 10:10:32 AM

I can't tomorrow, but keep going without me. I will catch up next week. I would suggest including Tom McKinlay from Energy, so they are kept in the loop on progress.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: July 27, 2017 9:15 AM
To: Mayman, Gadi (OFA)
Cc: Strathy, Anna (OFA); Gavaris, Hresa (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Kwan, Ronald (OFA); Nelms, Scott (MOF)
Subject: RE: Provincial Support Agreement

Sorry Gadi, I have booked tomorrow off as a vacation day so will not be able to make it.

Ken K

From: Gadi Mayman
Sent: Thursday, July 27, 2017 9:09 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

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From:	Ken Kandeepan
To:	Gadi Mayman
Cc:	Anna Strathy; Hresa Gavaris; Mike Manning; Carlos Yep; Ronald Kwan; Scott Nelms (ENERGY)
Subject:	RE: Provincial Support Agreement
Date:	Thursday, July 27, 2017 9:14:38 AM

Sorry Gadi, I have booked tomorrow off as a vacation day so will not be able to make it.

Ken K

From: Gadi Mayman
Sent: Thursday, July 27, 2017 9:09 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

From:	Mike Manning
To:	Gadi Mayman; Carlos Yep; Ken Kandeepan; Ronald Kwan; Scott Nelms (ENERGY)
Cc:	Anna Strathy; Hresa Gavaris
Subject:	RE: Provincial Support Agreement
Date:	Thursday, July 27, 2017 9:10:48 AM

Will be there, wherever.
Mike

From: Gadi Mayman
Sent: Thursday, July 27, 2017 9:09 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

From:	John Kim
To:	Ronald Kwan
Subject:	RE: Provincial Support Agreement
Date:	Thursday, July 27, 2017 11:47:54 AM

Good idea…..as I sense people have left this aside for a while.

From: Ronald Kwan
Sent: Thursday, July 27, 2017 11:47 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: Provincial Support Agreement

FYI John.

Ron

From: Gadi Mayman
Sent: July-27-17 10:55
To: Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: Re: Provincial Support Agreement

Doesn't look like Cindy can make that time either, so there are too many people that should be involved in this discussion with OPG that can't make it. I'd suggest that we leave it in the hands of everyone who is going to be around next week, and then I can weigh in when I get back. I think you're all aware of the firm direction that I've left with the banks and OPG, without much room to move, even though I'm guessing the banks are going to try to come back with a structure that attempts to transfer as much risk on to us as possible.

Gadi

On Jul 27, 2017, at 10:10 AM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:

> I can't tomorrow, but keep going without me. I will catch up next week. I would suggest including Tom McKinlay from Energy, so they are kept in the loop on progress.
>
> ---
>
> **From:** Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
> **Sent:** July 27, 2017 9:15 AM
> **To:** Mayman, Gadi (OFA)
> **Cc:** Strathy, Anna (OFA); Gavaris, Hresa (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Kwan, Ronald (OFA); Nelms, Scott (MOF)
> **Subject:** RE: Provincial Support Agreement
>
> Sorry Gadi, I have booked tomorrow off as a vacation day so will not be able to make it.

Ken K

From: Gadi Mayman
Sent: Thursday, July 27, 2017 9:09 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>
Subject: Provincial Support Agreement

OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.

Gadi

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From:	JACKSON, ADAM
To:	Laing, Mark; ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"; Hilloowala, Maharukh
Cc:	Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 2:03:10 PM
Attachments:	23148306v7_Term Sheet - Provincial Support Agreement - May 12 - 23148306....pdf 23148306-v8-Term Sheet - Provincial Support Agreement - May 12.DOCX

All,

I attach a revised draft of the indicative term sheet for the provincial support arrangement in clean and blackline. This draft includes one clarification to the section entitled “Satisfaction of a Servicing Guarantee”.

I have retained clause (y) in the Satisfaction of an Indemnity section for the time being, as I understand that this optionality is important to the OFA. That said, let us know if the OFA has any further comments or questions based on Mark’s email below.

Please let us know if you have any further comments, or if you are signed-off on this draft as soon as possible this afternoon, as I understand that the Department of Energy plans to send a revised draft to OPG before the close of business today.

Kind regards,
Adam

Adam Jackson
adam.jackson@blakes.com
Dir: 416-863-4324

From: Laing, Mark [mailto:Mark.Laing@tdsecurities.com]
Sent: Friday, June 23, 2017 12:31 PM
To: ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM; Hilloowala, Maharukh
Cc: Carolyn.Calwell@ontario.ca
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi all,

I know that the concept of an accelerated payment was discussed in yesterday's call and speaking with Steve this is the rationale for including clause (y) in the Satisfaction of an Indemnity section:

(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 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).

However, we want to note that the ability to redeem the bonds at par (plus accrued) would be off market and could hinder the marketability of an offering. Happy to discuss further. Thanks,

ML

Mark Laing | Vice President | Debt Capital Markets | **TD Securities**

Ernst & Young Tower, 222 Bay Street, 7th Floor, Toronto, ON M5K 1A2
T: (416) 983-8543 | M: (647) 242-5567 | F: (416) 308-3715 | mark.laing@tdsecurities.com

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http://www.tdsecurities.com/tds/content/SalesTrading_Disclaimer?language=fr_CA[tdsecurities.com]

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: Thursday, June 22, 2017 6:27 PM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM; Hilloowala, Maharukh
Cc: Laing, Mark; Carolyn.Calwell@ontario.ca
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi. Here is a revised version of the Term Sheet, including to reflect the comments discussed at our meeting this morning. Please pass on any final comments at your earliest opportunity. I will be travelling tomorrow, so please be sure to copy in my colleague, Adam Jackson (adam.jackson@blakes.com), in any response. Thanks very much, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

-----Original Appointment-----
From: Hresa Gavaris [mailto:Hresa.Gavaris@ofina.on.ca]
Sent: Wednesday, June 21, 2017 9:14 AM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); ASHBOURNE, STEPHEN; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); 'Susan.Thompson@tdsecurities.com'; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM
Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

———————————

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blakes.com[blakes.com] | **Twitter**[twitter.com] | **Unsubscribe**[blakes.com]

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Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Servicing Guarantees	
Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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.
Servicing Guarantee:	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

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

	unenforceable against the Servicing Guarantor, the Servicing Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Servicing Guarantor.
Term:	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.
Satisfaction of a 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~~as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	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.
Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
Addressing Mismatches	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 Mismatches	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 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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Document comparison by Workshare Compare on Friday, June 23, 2017 1:55:18 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/7
Description	TOR_2528-#23148306-v7-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/8
Description	TOR_2528-#23148306-v8-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	5
Deletions	5
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	10

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Servicing Guarantees	
Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Servicing Guarantee:	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.
Term:	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.
Satisfaction of a 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 as if 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	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.

Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
Addressing Mismatches	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 Mismatches	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 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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

From:	Anna Strathy
To:	Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); "stephen.ashbourne@blakes.com"; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"
Cc:	Laing, Mark
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Wednesday, June 21, 2017 2:00:24 PM
Attachments:	23148306-v6-Term Sheet - Provincial Support Agreement - May 12.docx 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.pdf

Good afternoon,

Please find attached, two versions of the term sheet to support tomorrow's discussion at 10am: a clean version and a mark-up showing changes from the original sent by OPG.

Thank you, Anna

Anna Strathy

Special Policy Advisor to CEO

Ontario Financing Authority

1 Dundas Street West, 14th Floor

416.325.8032 | anna.strathy@ofina.on.ca

-----Original Appointment-----
From: Hresa Gavaris
Sent: Tuesday, June 20, 2017 3:14 PM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); 'stephen.ashbourne@blakes.com'; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); 'Susan.Thompson@tdsecurities.com'; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'
Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Performance Guarantees	
Performance Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 Performance 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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Performance Guarantee:	Pursuant to a Performance Guarantee, the Performance 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 Performance Guarantee is held to be unenforceable against the Performance Guarantor, the Performance Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
<u>Indemnity</u>	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.

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 (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	The 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.
Approval Requirement:	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.
Limits under Indemnity:	Under no circumstances shall the Indemnitor be obligated to indemnify any Beneficiary for special or punitive damages, or for loss of profits.
<u>Undertakings regarding Certain Mismatches</u>	
Avoidance of Mismatches	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 avoid any Mismatch.

Possible Undertaking to Fund Mismatches	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 avoid 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 avoid the Mismatch. Any such undertaking may only be given 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 an inability to refinance 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.
<u>Documentation</u>	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance 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 Performance Guarantor or the Indemnitor, or any agent or representative of the Performance 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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Performance Guarantees	
Performance Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 Performance Guarantee to its creditors and contractual counterparties, including any indenture trustee acting on behalf of itself and ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

~~Term:~~	~~The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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:	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Performance Guarantee, the Performance Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, 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 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Performance Guarantee is held to be unenforceable against the Performance Guarantor, the ~~Provincial Support Agreement~~Performance Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of

[1] ~~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.~~

	any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.
~~Payment Guarantee Event~~Indemnity of the Province:	~~A Payment Guarantee Event will occur if~~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 (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
~~Payment Guarantee~~Term:	~~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.~~ The 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.
Approval Requirement:	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.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the ~~Guarantor~~Indemnitor be obligated to indemnify any Beneficiary for special or punitive damages, or for 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Avoidance of Mismatches**	~~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~~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 avoid any Mismatch.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 avoid 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 avoid the Mismatch. Any such undertaking may only be given 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 an inability to refinance 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.
~~Conditions Precedent to Closing:~~Documentation	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.[2]~~
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance Guarantor ~~is~~and the Indemnitor will be bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Performance Guarantor or ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Performance Guarantor or the Indemnitor, in connection with the ~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

Document comparison by Workshare Compare on Monday, June 19, 2017 8:13:03 PM

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Document 1 ID	PowerDocs://TOR_2528/23148306/1
Description	TOR_2528-#23148306-v1-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/6
Description	TOR_2528-#23148306-v6-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	89
Deletions	77
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	166

From:	Laing, Mark
To:	ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"; JACKSON, ADAM; Hilloowala, Maharukh
Cc:	Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 12:31:52 PM

Hi all,

I know that the concept of an accelerated payment was discussed in yesterday's call and speaking with Steve this is the rationale for including clause (y) in the Satisfaction of an Indemnity section:

(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 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).

However, we want to note that the ability to redeem the bonds at par (plus accrued) would be off market and could hinder the marketability of an offering. Happy to discuss further. Thanks,

ML

Mark Laing | Vice President | Debt Capital Markets | **TD Securities**
Ernst & Young Tower, 222 Bay Street, 7th Floor, Toronto, ON M5K 1A2
T: (416) 983-8543 | M: (647) 242-5567 | F: (416) 308-3715 | mark.laing@tdsecurities.com

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Cc: Laing, Mark; Carolyn.Calwell@ontario.ca
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stephen.ashbourne@blakes.com
Dir: 416-863-3086

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From:	Nelms, Scott (MOF)
To:	Anna Strathy; Steen Hume (CAB)
Cc:	Carolyn Calwell (MCSS); Malle Hanslep (MOF); Tom McKinlay (MAG); Tobias P. Whitfield (MOF); Gadi Mayman; Ronald Kwan; Gavin He
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 11:58:05 AM

I think Energy is signed off. I will confirm with Steve the appropriate docs to pass along.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: June 23, 2017 11:33 AM
To: Nelms, Scott (MOF); Hume, Steen (ENERGY)
Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); McKinlay, Tom (ENERGY); Whitfield, Tobias P. (MOF); Mayman, Gadi (OFA); Kwan, Ronald (OFA); He, Gavin (OFA)
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi Scott, Steen,

Gadi and Ron are fine with the revisions that Blakes made. Any comments from Energy? If not, Scott, will you be sending the clean copy to OPG?

Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, June 23, 2017 10:14 AM
To: ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; 'Susan.Thompson@tdsecurities.com' <Susan.Thompson@tdsecurities.com>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; JACKSON, ADAM <ADAM.JACKSON@blakes.com>; maharukh.hilloowala@TDSECURITIES.com
Cc: Laing, Mark <Mark.Laing@tdsecurities.com>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi Steve,

Thank you for the draft. OFA staff and MOF legal do not have any further comments on this draft.

Anna Strathy, OFA, will follow up directly with Energy on next steps.

Malle

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
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Cc: Laing, Mark; Calwell, Carolyn (ENERGY/MEDEI/MRI)
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

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Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

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From:	Anna Strathy
To:	Scott Nelms (ENERGY); Steen Hume (CAB)
Cc:	Carolyn Calwell (MCSS); Malle Hanslep (MOF); Tom McKinlay (MAG); Tobias P. Whitfield (MOF); Gadi Mayman; Ronald Kwan; Gavin He
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From: Ronald Kwan
To: Gavin He
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date: Friday, June 23, 2017 11:27:59 AM

Hi Gavin,

I had no further comments.

Ron

From: Gavin He
Sent: June-23-17 11:24
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi Ron,

Anna is planning to send this back to EIGS but wanted to check is you have any comments? Gadi and Legal have no comments on this.

Regards,
Gavin He

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From: Gavin He
To: Ronald Kwan
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date: Friday, June 23, 2017 11:24:10 AM

Hi Ron,

Anna is planning to send this back to EIGS but wanted to check is you have any comments? Gadi and Legal have no comments on this.

Regards,
Gavin He

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: Thursday, June 22, 2017 6:27 PM
To: Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; 'Susan.Thompson@tdsecurities.com' <Susan.Thompson@tdsecurities.com>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>; 'sarah.hosick@ontario.ca' <sarah.hosick@ontario.ca>; JACKSON, ADAM <ADAM.JACKSON@blakes.com>; maharukh.hilloowala@TDSECURITIES.com
Cc: Laing, Mark <Mark.Laing@tdsecurities.com>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi. Here is a revised version of the Term Sheet, including to reflect the comments discussed at our meeting this morning. Please pass on any final comments at your earliest opportunity. I will be travelling tomorrow, so please be sure to copy in my colleague, Adam Jackson (adam.jackson@blakes.com), in any response. Thanks very much, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

-----Original Appointment-----
From: Hresa Gavaris [mailto:Hresa.Gavaris@ofina.on.ca]
Sent: Wednesday, June 21, 2017 9:14 AM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); ASHBOURNE, STEPHEN; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); 'Susan.Thompson@tdsecurities.com'; Tom McKinlay

(MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM
Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

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From:	JACKSON, ADAM
To:	Malle Hanslep (MOF); ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); Veinot, Cindy (TBS); Hosick, Sarah (TBS); maharukh.hilloowala@TDSECURITIES.com
Cc:	Laing, Mark; Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 10:16:29 AM

Thanks, Malle.

Kind regards,
Adam

Adam Jackson
adam.jackson@blakes.com
Dir: 416-863-4324

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, June 23, 2017 10:14 AM
To: ASHBOURNE, STEPHEN; Gavaris, Hresa (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); He, Gavin (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA); Whitfield, Tobias P. (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Calwell, Carolyn (ENERGY/MEDEI/MRI); 'Susan.Thompson@tdsecurities.com'; McKinlay, Tom (ENERGY); Nelms, Scott (MOF); Veinot, Cindy (TBS); Hosick, Sarah (TBS); JACKSON, ADAM; maharukh.hilloowala@TDSECURITIES.com
Cc: Laing, Mark; Calwell, Carolyn (ENERGY/MEDEI/MRI)
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi Steve,

Thank you for the draft. OFA staff and MOF legal do not have any further comments on this draft.

Anna Strathy, OFA, will follow up directly with Energy on next steps.

Malle

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: June 22, 2017 6:27 PM
To: Gavaris, Hresa (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); He, Gavin (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA); Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Calwell, Carolyn (ENERGY/MEDEI/MRI); 'Susan.Thompson@tdsecurities.com'; McKinlay, Tom (ENERGY); Nelms, Scott (MOF); Veinot, Cindy (TBS); Hosick, Sarah (TBS); JACKSON, ADAM; maharukh.hilloowala@TDSECURITIES.com
Cc: Laing, Mark; Calwell, Carolyn (ENERGY/MEDEI/MRI)
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

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Stephen R. Ashbourne
Partner

stephen.ashbourne@blakes.com
Dir: 416-863-3086

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Sent: Wednesday, June 21, 2017 9:14 AM
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Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

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From:	Hanslep, Malle (MOF)
To:	ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); "Susan.Thompson@tdsecurities.com"; Tom McKinlay (MAG); Scott Nelms (ENERGY); Veinot, Cindy (TBS); Hosick, Sarah (TBS); JACKSON, ADAM; maharukh.hilloowala@TDSECURITIES.com
Cc:	Laing, Mark; Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 10:15:28 AM

Hi Steve,

Thank you for the draft. OFA staff and MOF legal do not have any further comments on this draft.

Anna Strathy, OFA, will follow up directly with Energy on next steps.

Malle

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: June 22, 2017 6:27 PM
To: Gavaris, Hresa (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); He, Gavin (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA); Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Hume, Steen (ENERGY); Cox, Hilary (ENERGY); Calwell, Carolyn (ENERGY/MEDEI/MRI); 'Susan.Thompson@tdsecurities.com'; McKinlay, Tom (ENERGY); Nelms, Scott (MOF); Veinot, Cindy (TBS); Hosick, Sarah (TBS); JACKSON, ADAM; maharukh.hilloowala@TDSECURITIES.com
Cc: Laing, Mark; Calwell, Carolyn (ENERGY/MEDEI/MRI)
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Cc:	Laing, Mark; Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Thursday, June 22, 2017 6:26:51 PM
Attachments:	23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.PDF 23148306-v7-Term Sheet - Provincial Support Agreement - May 12.DOCX

Hi. Here is a revised version of the Term Sheet, including to reflect the comments discussed at our meeting this morning. Please pass on any final comments at your earliest opportunity. I will be travelling tomorrow, so please be sure to copy in my colleague, Adam Jackson (adam.jackson@blakes.com), in any response. Thanks very much, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

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Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

~~Performance~~Servicing Guarantees	
~~Performance~~Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 ~~Performance~~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.
~~Performance~~Servicing Guarantee:	Pursuant to a ~~Performance~~Servicing Guarantee, the ~~Performance~~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

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

	adjustments with other amounts. In the event that the ~~Performance~~Servicing Guarantee is held to be unenforceable against the ~~Performance~~Servicing Guarantor, the ~~Performance~~Servicing Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the ~~Performance~~Servicing Guarantor.
Term:	The ~~Performance~~Servicing Guarantor's obligations under a ~~Performance~~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 ~~Performance~~Servicing Guarantee.
Satisfaction of a 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.
Approval Requirement:	The servicing obligations (including any amendments) to which the ~~Performance~~Servicing Guarantee relates, together with the provisions of any ~~Performance~~Servicing Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under ~~Performance~~Servicing Guarantee:	Under no circumstances shall the ~~Performance~~Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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 ~~(each, an "**Indemnification Event**")~~: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	~~The~~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.
Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
~~**Avoidance of**~~**Addressing Mismatches**	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 ~~avoid~~address any Mismatch.
Possible Undertaking to Fund Mismatches	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 ~~avoid~~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 ~~avoid~~address the Mismatch. Any such undertaking ~~may only~~would be ~~given~~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 ~~an inability to refinance~~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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the ~~Performance~~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 ~~Performance~~Servicing Guarantor or the Indemnitor, or any agent or representative of the ~~Performance~~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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Document comparison by Workshare Compare on Thursday, June 22, 2017 6:12:32 PM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/6
Description	TOR_2528-#23148306-v6-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Document 2 ID	PowerDocs://TOR_2528/23148306/7
Description	TOR_2528-#23148306-v7-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
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	47
Deletions	33
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	80

Provincial Protection and Assurances

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Servicing Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Servicing Guarantee:	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.
Term:	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.
Satisfaction of a 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.
Approval Requirement:	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.
Limits under Servicing Guarantee:	Under no circumstances shall the Servicing Guarantor be obligated to pay consequential, special or punitive damages, or for economic loss or loss of profits.

Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together, or an entity owned by the Province of Ontario whose indemnity obligations, as contemplated by this Term Sheet, are in turn unconditionally guaranteed by the Province of Ontario.
Indemnitees:	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.
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: (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	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.

Satisfaction of an 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 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).
Approval Requirement:	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.
Limits under Indemnity:	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.
Undertakings regarding Certain Mismatches	
Addressing Mismatches	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 Mismatches	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 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.
Documentation	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

From:	Gadi Mayman
To:	"JACKSON, ADAM"; Laing, Mark; ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); "cindy.veinot@ontario.ca"; "sarah.hosick@ontario.ca"; Hilloowala, Maharukh
Cc:	Carolyn Calwell (MCSS)
Subject:	RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
Date:	Friday, June 23, 2017 2:36:19 PM

I'd suggest that we leave it in there for now, recognizing that we will likely have to modify it to recognize what market practice is, or drop it completely at the next iteration.

The optionality is important to us, but we recognize that we can't force a market to go in a direction that it doesn't want to.

I think that the likely outcome, in a scenario if the indemnity were to kick in, would be for us to do something which would enable the SPV to continue to make timely interest and principal payments, rather than accelerate the payment, but it would be good to leave the option for the acceleration in, so whomever is making those decisions at that time would have a choice. It seems unlikely to me that whomever from the Province is making that decision would be willing to have the potentially very expensive market-standard make whole clause, so we may have a stand-off here if OPG and their underwriters are unwilling to accept clause (y), but let's see.

Thanks,
Gadi

From: JACKSON, ADAM [mailto:ADAM.JACKSON@blakes.com]
Sent: Friday, June 23, 2017 2:03 PM
To: Laing, Mark <Mark.Laing@tdsecurities.com>; ASHBOURNE, STEPHEN <STEPHEN.ASHBOURNE@blakes.com>; Hresa Gavaris <Hresa.Gavaris@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gavin He <Gavin.He@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Thompson, Susan <Susan.Thompson@tdsecurities.com>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; 'cindy.veinot@ontario.ca' <cindy.veinot@ontario.ca>; 'sarah.hosick@ontario.ca' <sarah.hosick@ontario.ca>; Hilloowala, Maharukh <Maharukh.Hilloowala@tdsecurities.com>

Cc: Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

All,

I attach a revised draft of the indicative term sheet for the provincial support arrangement in clean and blackline. This draft includes one clarification to the section entitled “Satisfaction of a Servicing Guarantee”.

I have retained clause (y) in the Satisfaction of an Indemnity section for the time being, as I understand that this optionality is important to the OFA. That said, let us know if the OFA has any further comments or questions based on Mark’s email below.

Please let us know if you have any further comments, or if you are signed-off on this draft as soon as possible this afternoon, as I understand that the Department of Energy plans to send a revised draft to OPG before the close of business today.

Kind regards,
Adam

Adam Jackson
adam.jackson@blakes.com
Dir: 416-863-4324

From: Laing, Mark [mailto:Mark.Laing@tdsecurities.com]
Sent: Friday, June 23, 2017 12:31 PM
To: ASHBOURNE, STEPHEN; Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM; Hilloowala, Maharukh
Cc: Carolyn.Calwell@ontario.ca
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi all,

I know that the concept of an accelerated payment was discussed in yesterday's call and speaking with Steve this is the rationale for including clause (y) in the Satisfaction of an Indemnity section:

(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 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).

However, we want to note that the ability to redeem the bonds at par (plus accrued) would be off market and could hinder the marketability of an offering. Happy to discuss further. Thanks,

ML

Mark Laing | Vice President | Debt Capital Markets | **TD Securities**
Ernst & Young Tower, 222 Bay Street, 7th Floor, Toronto, ON M5K 1A2
T: (416) 983-8543 | M: (647) 242-5567 | F: (416) 308-3715 | mark.laing@tdsecurities.com

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http://www.tdsecurities.com/tds/content/SalesTrading_Disclaimer?language=fr_CA[tdsecurities.com]

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: Thursday, June 22, 2017 6:27 PM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); Thompson, Susan; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM; Hilloowala, Maharukh
Cc: Laing, Mark; Carolyn.Calwell@ontario.ca
Subject: RE: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes

Hi. Here is a revised version of the Term Sheet, including to reflect the comments discussed at our meeting this morning. Please pass on any final comments at your earliest opportunity. I will be travelling tomorrow, so please be sure to copy in my colleague, Adam Jackson (adam.jackson@blakes.com), in any response. Thanks very much, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

-----Original Appointment-----
From: Hresa Gavaris [mailto:Hresa.Gavaris@ofina.on.ca]
Sent: Wednesday, June 21, 2017 9:14 AM
To: Hresa Gavaris; James Devine; Carlos Yep; Ken Kandeepan; Ronald Kwan; Gavin He; Gadi Mayman; Anna Strathy; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); ASHBOURNE, STEPHEN; Steen Hume (CAB); Hilary Cox (ENE); Carolyn Calwell (MCSS); 'Susan.Thompson@tdsecurities.com'; Tom McKinlay (MAG); Scott Nelms (ENERGY); 'cindy.veinot@ontario.ca'; 'sarah.hosick@ontario.ca'; JACKSON, ADAM
Cc: Laing, Mark
Subject: Provincial Support Agreement | Meeting with OFA, OPCD, Energy, TD and Blakes
When: Thursday, June 22, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Executive Boardroom, 14th Floor, 1 Dundas Street West

CM teleconference 416-406-5763 or 1-866-596-5280 p/c 9763326#

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000, Toronto ON M5L 1A9
Tel: 416-863-2400 Fax: 416-863-2653
blakes.com[blakes.com] | **Twitter**[twitter.com] | **Unsubscribe**[blakes.com]

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From:	Ken Kandeepan
To:	John Kim
Cc:	Ronald Kwan; Gadi Mayman; Carlos Yep; James Devine; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Scott Nelms (ENERGY); Mike Manning
Subject:	RE: Provincial Support Agreement update
Date:	Wednesday, September 06, 2017 5:09:30 PM

Thanks John, just to be clear what we determined at the meeting yesterday was to ensure that Energy was in fact comfortable with the OFA sharing the latest version of OPG's term sheet for the guarantee **including the comments and edits from Blake's**. These, while not substantially amending the term sheet does make it narrower.

Let us know

Thanks

Ken k

From: John Kim
Sent: Wednesday, September 06, 2017 5:02 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Mike, Ken,

I had a call with Adrian Nalasco who is acting for Steen. He has indicated that along with Steen, Energy's Deputy is away so it is difficult for him to provide a formal go-ahead to us. I explained to him the time sensitivity and that we would have a discussion with OPG on an informal basis to get their feedback on the latest draft which MOF Legal and Energy Legal have drafted. I gave him a bit of a background that OPG has had back and forth with us on previous versions of the draft.

With these caveats, Adrian is comfortable with various members of the OFA having discussions with OPG counterparts on the latest draft support agreement.

Thanks,

John

From: John Kim
Sent: Tuesday, September 05, 2017 6:08 PM
To: Steen Hume (CAB) <Steen.Hume@ontario.ca>

Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Cheryl Carson (ENERGY) <Cheryl.Carson@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Ronald Kwan
To: John Kim
Subject: RE: Provincial Support Agreement update
Date: Tuesday, September 05, 2017 5:31:46 PM

Hi John,

You`d have to send a different file, without the briefing note pages, unless Energy Legal has indicated otherwise.

And a few small suggestions below.

Ron

From: John Kim
Sent: September-05-17 17:18
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Provincial Support Agreement update

With cc: to you, Malle, Toby, Scott N., Carolyn Calwell and Gadi. Also, Cheryl Carson is the acting Legal Director this week, I understand from Adrian.

I was going to forward Toby's original email.

I am sending this for your review. Let me know pls. if it looks okay.

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet (excluding the note attached to the draft term sheet) with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

Thanks,
John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From:	Ken Kandeepan
To:	John Kim
Cc:	Ronald Kwan
Subject:	RE: Provincial Support Agreement update
Date:	Sunday, September 03, 2017 10:07:44 AM

Hi John

I was under the impression based on our last meeting with OPG and their advisors that the guarantee would be limited to interest and outstanding debt plus and service fees, is the latter what you are referring to in your email.

Thanks

Ken k

From: John Kim
Sent: Thursday, August 31, 2017 5:38 PM
To: 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; Mark Donaldson (MOF) <Mark.Donaldson@ontario.ca>
Subject: RE: Provincial Support Agreement update

And the scope of what the agreement would cover – more than payment of principal and interest.

From: John Kim
Sent: Thursday, August 31, 2017 5:35 PM
To: 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Mark Donaldson (MOF) <Mark.Donaldson@ontario.ca>
Subject: RE: Provincial Support Agreement update

Hi Cindy,

Yes, as you put it. Very simplistically – additional activation events other than the two currently in the draft – legislative and court decision. In OPG's draft, they also didn't have any materiality wording in there.

From: Veinot, Cindy (TBS) [mailto:Cindy.Veinot@ontario.ca]
Sent: Thursday, August 31, 2017 5:27 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Hosick, Sarah (TBS)

<Sarah.Hosick@ontario.ca>; Mark Donaldson (MOF) <Mark.Donaldson@ontario.ca>
Subject: RE: Provincial Support Agreement update

Hi John –can you clarify what you mean by "more support" – more re: in scope of when the guarantee kicks in? If not, is there a section of the attachment that you are referring to?

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 31, 2017 5:21 PM
To: Veinot, Cindy (TBS)
Cc: Kwan, Ronald (OFA); Kandeepan, Ken (OFA); John Psinas; Mayman, Gadi (OFA); Hosick, Sarah (TBS); Donaldson, Mark (TBS)
Subject: FW: Provincial Support Agreement update

Hi Cindy, Mark,

Ron and Ken are both away this week so I'm sending this at Gadi's request. As you will recall from the implementation meeting this morning, FHP-related bond issues by OPG FE will require a Provincial support to make it financeable.

The attached note by MOF Legal and Energy Legal staff [still draft for discussion purpose] would provide you with a sense of where the term sheet discussions currently are. It is possible that OPG may require more support than envisioned in the attached draft, which would be based on factors such as financeability, etc.

Apologies for the request just before your vacation but could you let us know if OPCD would have any concerns?

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

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Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From:	Veinot, Cindy (TBS)
To:	John Kim
Cc:	Ronald Kwan; Ken Kandeepan; John Psinas; Gadi Mayman; Hosick, Sarah (TBS); Mark Donaldson (MOF)
Subject:	RE: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 6:46:05 PM
Attachments:	Term Sheet - Provincial Support Agreement - 08-14-2017_OPCD.DOCX

The last term sheet I had was dated August 14. The term sheet you attached is narrower than that version. I haven't been involved in any calls on this matter since August 10 and on that date, I couldn't stay for the entire call. Given all that, I'm not much help on your questions as I haven't been privy to any discussion re: narrowing the terms. I did send comments on the Aug 14 term sheet to Scott Nelms who noted that those he flipped to OFA, so assuming you have them (I've attached them here just in case). I agree with the narrowing as I had concerns with some of the language in the August 14th document.

Cindy

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: August 31, 2017 5:35 PM
To: Veinot, Cindy (TBS)
Cc: Kwan, Ronald (OFA); Kandeepan, Ken (OFA); John Psinas; Mayman, Gadi (OFA); Hosick, Sarah (TBS); Donaldson, Mark (TBS)
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Sent: Thursday, August 31, 2017 2:18 PM
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Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

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Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch

Ministry of Finance
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Confidential – Draft for Discussion Purposes Only
Draft: August 14, 2017

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.*

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; (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; (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; (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 judgement determines that all or a portion of the Act is *ultra*

Commented [A1]: How is "on an equivalent basis" determined?

What if a regulation needs to be changed for something that has no impact on the ability for the financing entity to get repaid – is this considered a guarantee activation event? Does this scope need to be narrowed such that this only constitutes a guarantee activation event it if impacts the finance entity's ability to recoup its investment? I would think that the language in (B) that limits the scope of the change to something that impacts the Financing Entity should be included in (A)

Commented [A2]: What agreements are we referring to here – we need to identify them – are they only agreements that the Financing Entity is a party to?

	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.]**
Guarantee:	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

Commented [A3]: The initial three lines of this sentence appears very broad – what if there is a change in the market structure such that electricity consumption declines substantially – is that covered here? What types of changes would be contemplated here?

Commented [A4]: Who makes this determination?

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

Commented [A5]: There is a lot of daylight between "generally consistent" and "materially changed" – the requirement for when approval is needed should be further clarified.

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

Commented [A6]: Is the reserve account still an option?

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
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.

[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.

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

From:	John Kim
To:	"Veinot, Cindy (TBS)"
Cc:	Ronald Kwan; Ken Kandeepan; John Psinas; Gadi Mayman; "Hosick, Sarah (TBS)"; Mark Donaldson (MOF)
Subject:	RE: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 5:37:52 PM

And the scope of what the agreement would cover – more than payment of principal and interest.

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Date:	Thursday, August 31, 2017 5:27:15 PM

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From:	John Kim
To:	Ronald Kwan
Subject:	RE: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 4:56:04 PM

Fyi, Gadi has asked me to send Cindy an email. Will do that now.

From: John Kim
Sent: Thursday, August 31, 2017 4:18 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Provincial Support Agreement update

Fyi.

In case you're checking emails, I have a question for you…..from the implementation meeting this morning, I learned that Cindy will be away for 2 weeks after this week. Given Gadi's question below about checking OPCD on the accounting, should someone ask OPCD on the accounting aspect sooner rather than later vis-à-vis the support agreement? This is accounting so I am reluctant to step in.

From: John Kim
Sent: Thursday, August 31, 2017 3:59 PM
To: Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Provincial Support Agreement update

Hi Gadi,

Toby mentioned that the document was just finalized this morning, likely meaning that other than the various legal staff involved, not widely shared. We will need to start involving OPCD and others.

Mike gave me a call that he had a quick chat with John Lee at OPG and that OPG may be open to the proposed direction but TBD.

Thanks,

John

From: Gadi Mayman
Sent: Thursday, August 31, 2017 3:47 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Re: Provincial Support Agreement update

Thanks, John. Do you know if OPCD is comfortable with the revisions made by the lawyers, and

if they are OK with it from an accounting perspective, do we know whether OPG will find this satisfactory for their bankers and the rating agencies?

Thanks again,
Gadi

From: John Kim
Sent: Thursday, August 31, 2017 3:36 PM
To: Gadi Mayman
Subject: FW: Provincial Support Agreement update

Fyi.

From: John Kim
Sent: Thursday, August 31, 2017 2:52 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: Provincial Support Agreement update

Hi,

Pls. see attached note and the revised term sheet per MOF Legal, Energy Legal and Blake's. I believe the note is quite clear and self-explanatory. It was indicated at this morning's implementation meeting that things are moving along for September TB/MBC approval.

As suggested by MOF Legal, I am happy to coordinate a meeting for Wednesday when everyone (hopefully) is back and has had time to review.

Thanks,

John

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From:	Gadi Mayman
To:	John Kim; Mike Manning; Ken Kandeepan
Cc:	Ronald Kwan; Carlos Yep; James Devine; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Scott Nelms (ENERGY); Anna Strathy
Subject:	RE: Provincial Support Agreement update
Date:	Wednesday, September 06, 2017 5:19:52 PM

Given the time sensitivity of this, in order to ensure that we make it to TB on the 26th, I'm comfortable with Mike not just having discussions with OPG, but sharing the draft with them, as long as you tell them that this hasn't yet been fully vetted by Energy. If there are show-stoppers for OPG, which I'm hoping there aren't, we really need to know about them this week.

Gadi

From: John Kim
Sent: Wednesday, September 06, 2017 5:02 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Mike, Ken,

I had a call with Adrian Nalasco who is acting for Steen. He has indicated that along with Steen, Energy's Deputy is away so it is difficult for him to provide a formal go-ahead to us. I explained to him the time sensitivity and that we would have a discussion with OPG on an informal basis to get their feedback on the latest draft which MOF Legal and Energy Legal have drafted. I gave him a bit of a background that OPG has had back and forth with us on previous versions of the draft.

With these caveats, Adrian is comfortable with various members of the OFA having discussions with OPG counterparts on the latest draft support agreement.

Thanks,

John

From: John Kim
Sent: Tuesday, September 05, 2017 6:08 PM
To: Steen Hume (CAB) <Steen.Hume@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY)

<Scott.Nelms@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Cheryl Carson (ENERGY) <Cheryl.Carson@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From:	Hanslep, Malle (MOF)
To:	Ronald Kwan
Cc:	Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Thursday, June 01, 2017 9:06:05 AM

Yes, I agree that it would make sense to loop in Scott on this since I understand that he is also involved in this project and it may be that he would also be one of the Provincial attendees to attend the meeting with Blakes. Since I have not been involved in previous calls with Scott in this, it may be best if someone from the OFA contacts him on this.

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: May 31, 2017 11:13 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi Malle,

It might be helpful to loop in Scott Nelms in advance via email, too, as he could provide some insights on Energy and OPG's perspectives, in advance of a meeting.

Ron

From: Hanslep, Malle (MOF)
Sent: Wednesday, May 31, 2017 11:29
To: Manning, Mike (OFA)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi all,

We had a very useful meeting with Blakes (Steven Ashbourne) and Energy Legal this morning. There are quite a few legal issues and concerns to discuss regarding this term sheet as it is overly broad. At this point in the development of the province's role in support, it seems that the development of this type of term sheet is premature given the uncertainties.

At our meeting we discussed, that a useful next step would be to have another meeting with Provincial representatives and Blakes which would include yourselves from the OFA, Energy legal and Energy reps as well as the Provincial Controller and likely TD as well as the Province's financial advisor so that we can all discuss next steps and the best approach.

In the meantime, Toby and I can have an internal call to give you an update on our meeting this morning. Possibly at 3pm today if that works.

Thanks.

Malle

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]

Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

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>
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> We are meeting on Wednesday morning so after that we could have a follow up
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> From: Ronald Kwan
> Sent: Monday, May 29, 2017 17:17
> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
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> Thanks for the list.
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> Would it be helpful if the group met again to discuss?
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> When are you meeting with Energy Legal and Blakes?
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> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> Subject: RE: Provincial Support Term Sheet
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> From: Hanslep, Malle (MOF)
> Sent: May 26, 2017 3:16 PM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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> Malle Hanslep
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> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
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From:	Hanslep, Malle (MOF)
To:	Mike Manning
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 11:30:15 AM

Hi all,

We had a very useful meeting with Blakes (Steven Ashbourne) and Energy Legal this morning. There are quite a few legal issues and concerns to discuss regarding this term sheet as it is overly broad. At this point in the development of the province's role in support, it seems that the development of this type of term sheet is premature given the uncertainties.

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Thanks.

Malle

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Sent: May 29, 2017 8:44 PM
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Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
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Sent from my iPad

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> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> Subject: RE: Provincial Support Term Sheet
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> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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From:	Hanslep, Malle (MOF)
To:	Mike Manning
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Tuesday, May 30, 2017 8:23:24 AM

Thanks Mike. We will be in touch after our meeting.

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
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> Sent: May 26, 2017 3:16 PM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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From: Ronald Kwan
To: Malle Hanslep (MOF)
Subject: RE: Provincial Support Term Sheet
Date: Monday, May 29, 2017 5:34:08 PM

Thanks Malle.

Ron

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: May-29-17 17:34
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
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From:	Ronald Kwan
To:	Malle Hanslep (MOF); Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan
Cc:	Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Monday, May 29, 2017 5:17:23 PM

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Sent: May-29-17 12:40
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To:	Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Ronald Kwan
Cc:	Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Monday, May 29, 2017 12:40:31 PM
Attachments:	Prov Support Agt May 12 MOF draft comments.docx

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Malle

From: Hanslep, Malle (MOF)
Sent: May 29, 2017 9:18 AM
To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
Cc: Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi all,

We are also putting together an issues list for discussion with Energy Legal and Blakes and will share it with you as well.

Is there any type of draft term sheet for the proposed financing transaction itself or the master sales and servicing agreement? Any general description of the proposed transaction would be helpful to us.

Thank you.

Malle

From: Hanslep, Malle (MOF)
Sent: May 26, 2017 3:16 PM
To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
Cc: Whitfield, Tobias P. (MOF)
Subject: Provincial Support Term Sheet

Hi all,

Further to our meeting on Wednesday, Toby and I have now been in touch with Energy Legal regarding the term sheet and will be attending a meeting with counsel at Blakes next Wednesday morning.

Best,

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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CONFIDENTIAL AND PRIVILEGED LEGAL ADVICE

ISSUES LIST – PROVINCIAL SUPPORT AGREEMENT DRAFT MAY 12, 2017

1. Guarantor will be the Minister of Energy and the Minister of Finance on behalf of the Province (see. 5(3) of proposed Fair Hydro Act, 2017).

2. Description of proposed beneficiaries of guarantee is very broad. Provides that beneficiary is Indenture trustee under master trust indenture on behalf of itself and all persons that have claims against a Financing Entity secured under the master trust indenture. Persons range from the Financial Services Manager (OPG) to holders of various types of debt and hedge counterparties. Need to clarify which obligations the Province is being requested to guarantee and under what various agreements to determine scope and limit of guarantee. Is there a term sheet for the proposed financing to be issued by the Financing Entity? Is there a request for a guarantee of payment on other back-up or ancillary borrowing and obligations other than those issued in the market? Is there a draft of the Master Trust Indenture?

3. Why does the term of the guarantee continue for one year after the obligations have been repaid?

4. Performance Guarantee – This is also a very broad guarantee of performance of the IESO and all electricity services providers in favour of the same broad group of beneficiaries. How can the Province ensure that these entities perform their obligations practically? Also the Province is to protect beneficiaries from any commingling risk. It is noted that in the event the performance guarantee is unenforceable against the Province, there would be a separate legal obligation in the provincial support agreement to indemnify beneficiaries for any losses. Would there be any trigger events applicable to the obligation to indemnify as there are for the payment guarantee. If not, is this an issue for accounting treatment purposes? Also, is there an overlap between the performance and payment guarantee? So long as the funding obligations are paid on time by the financing entity, is there a need for other guarantees from the Province? Note that the Province does have immunity from specific types of enforcement under the Proceedings against the Crown Act. Is there a sample term sheet for the Master Sale and Servicing Agreement? Which provisions of the proposed bill are being relied on for this – is it section 5(2)? section 33. There doesn't seem to be a mechanism in the Act to replace the IESO as servicer. Should the Guarantee specify that the Province can appoint a replacement servicer?

5. Payment Guarantee Event – Regarding (B) and (C), the interpretation of when the triggering event has occurred will be an issue – is there a way to make it more objective or how can this be handled if there is a dispute? Regarding (D), think that there is going to be more discussion of the need for this provision from a business perspective. However, is this assuming, that the Province is guaranteeing both long term and short

term funding obligations? Need to clarify when and which obligations the province will be guaranteeing?

6. Payment Guarantee – Again it will be necessary to clarify which obligations the province is guaranteeing to understand what the range of payments to be made are. Also, (y) does not seem acceptable to the Province from a business perspective.

7. Limits under Guarantee – The guarantee wording should be clear so that the Province is guaranteeing payment of certain debt or specific obligations only and the Province's liability should be capped. Province should not be exposed to the risk of any other types of damages or losses.

8. Priority of Payments – Until we know who the beneficiaries are and with respect to what obligations, it is difficult to comment on this.

9. Subrogation – Need to ensure that the Province has appropriate recovery rights and not sure that it is appropriate that all beneficiaries are paid in full before Province gets subrogation rights. Also there is no acceleration here and Province really pays on an ongoing basis so how should subrogation work in such a case.

10. Conditions Precedent – Need to know what they are proposed to be.

11. Representations – Need to know what they are proposed to be as Province does not typically provide representations in connection with guarantees it provides.

12. Confidentiality Obligations – Thought the guarantee is part of a public financing so wouldn't the terms all be known?

13. Legal Opinions – Content, who will be providing them and to whom would they be provided.

General Questions on proposed legislation and interaction with guarantee:

14. General review of relevant sections would be appreciated and how the provisions fit with the requirements of the financing. In particular, s. 5, 13, 19, 21, 22, 33, 41 par 7

Ministry of Finance LSB
May 29, 2017

From: John Kim
To: Ronald Kwan
Subject: RE: Provincial Support Term Sheet
Date: Monday, May 29, 2017 11:00:09 AM
Attachments: GA Structure v12 To MOF_Legal.docx

Hi Ron,

I believe we had shared the attached with MOF Legal earlier….might be the best one still.

We are still looking for other versions.

Thanks,

John

From: Ronald Kwan
Sent: Monday, May 29, 2017 9:40 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: FW: Provincial Support Term Sheet

Hi John,

See Malle's query.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: May-29-17 09:18
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
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Structure of the Global Adjustment Deferral Mechanism

Issue

The Province is working with Ontario Power Generation (OPG), the Ontario Energy Board (OEB), IESO, external accountants, and other agencies to develop a mechanism to defer the global adjustment (GA) payment as part of the recently announced Ontario Fair Hydro Plan. This note outlines current proposals for this mechanism.

Context

- Smoothing of GA costs over time would involve ratepayers paying only a portion of the GA cost in earlier years, while this shortfall would be made up by future rate payers paying more than the true cost of the GA in later years.
    - There will be a proposed cap of $2.242B on the annual additional cost over the GA to lessen the burden on ratepayers.

- The shortfall in GA payments in earlier years would represent deferred costs to ratepayers. However, the mechanism would still need to compensate power generators on an ongoing basis for the full cost of the GA and would therefore need to borrow and take on debt to make cash payments to power generators.
- Principal payments on debt would be mandatory, but there has been no clarification on whether or not interest payments will be capitalized (i.e., interest accumulates resulting in compounding) or if interest will be recovered from ratepayers on an on-going basis.
    - If interest payments are made by ratepayers on an on-going basis debt costs would be lower, however this would also have the effect of reducing ratepayer savings from the GA deferral mechanism. The commitment is for a 25% reduction on average for all residential customers, which would mean that the amount of principal needs to be larger to offset this effect.
- It has also been proposed that all administrative and other costs from the GA deferral would need to be collected from ratepayers immediately or recognized at the very least as a future benefit to the Province, adding to the costs passed on to ratepayers.

Structure (*refer to Exhibit A*)

- The deferred portion of the GA needs to be recognized as an asset – likely a regulatory asset – by the IESO, which gives the IESO the right to collect the deferred amount from ratepayers at a future date.
- This asset, in turn, would be sold to another party that would receive the revenues associated with this asset.
    - It is proposed that the IESO be required to recover the costs associated with this asset even after selling it.
    - To do this the IESO would need to sell the asset in order to settle its arrangements with generators, and ensure generators are not affected by the deferral.
        - Alternatively, the IESO could simply borrow funds (using the regulatory asset as collateral), but this poses risks for both consolidation on public accounts and credit ratings.
        - With respect to the credit rating risk, DBRS stated in a March 3, 2017 report that "*Provided the debt continues to be fully supported through the electricity rate base, DBRS will treat it as self-supported and exclude it from the calculation of tax-supported debt*".
- OPG is proposing to set up a special purpose vehicle, "OPG Trust", which would purchase the regulatory asset from the IESO.
    - The purchase would be funded by debt from the capital markets (51% of the deferred GA Cost), and OPG (49% of the deferred GA).
    - OPG would finance that 49% through debt from the capital markets (5%) and an equity injection from the Province (44%).

    - The debt would be set-up in tranches to ensure that the 51% of debt directly from the market would be senior, potentially mitigating the risk premium associated with high amounts of borrowing with an intangible, unique asset as collateral.
- There are several other considerations and requirements that would need to be attained in order for the mechanism to work, as detailed in the OPG White Paper sent to the Deputy Minister of Energy on February 27, 2017.

Equity Injection (*refer to Exhibit A & B*)

- The equity injection could lead to increasing, and then stabilizing dividend payouts in consistent with OPG's's risk profile and comparable business entities.
    - Principal and interest payments flowing from the ratepayers through the IESO and the Trust could be paid back to the Province.
    - This would increase steadily as ratepayers begin to pay back principal in about 10 years' time, eventually reaching a cap of $2.242B in principal and interest per year based on Energy's March estimates (based on the capitalized interest scenario).
    - The administrative costs and return for OPG/OPG Trust would also need to be collected by ratepayers, but the dividend payments would be net of these amounts and should still allow the Province to earn a substantial return.
    - Dividend payments could also allow OPG to eventually optimize its capital structure to the targeted or deemed 55%-45% debt to equity split, as dividends allow OPG to reduce its retained earnings thereby reducing equity.
- Recapitalization from the Province is preferable as there are no associated interest expenses or large principal payments that could affect OPG's credit rating.
- If debt financing was utilized, the change in the cost of borrowing could also impact OPG's rate applications for the return recovered from ratepayers through payment amounts, potentially offsetting ratepayer benefit of the GA deferral mechanism.
- The financing structure split between equity (44%) and debt (5% borrowed by OPG and 51% borrowed by OPG Trust) is roughly equivalent to the deemed capital structure of 55% debt and 45% equity for regulated distributors in Ontario.

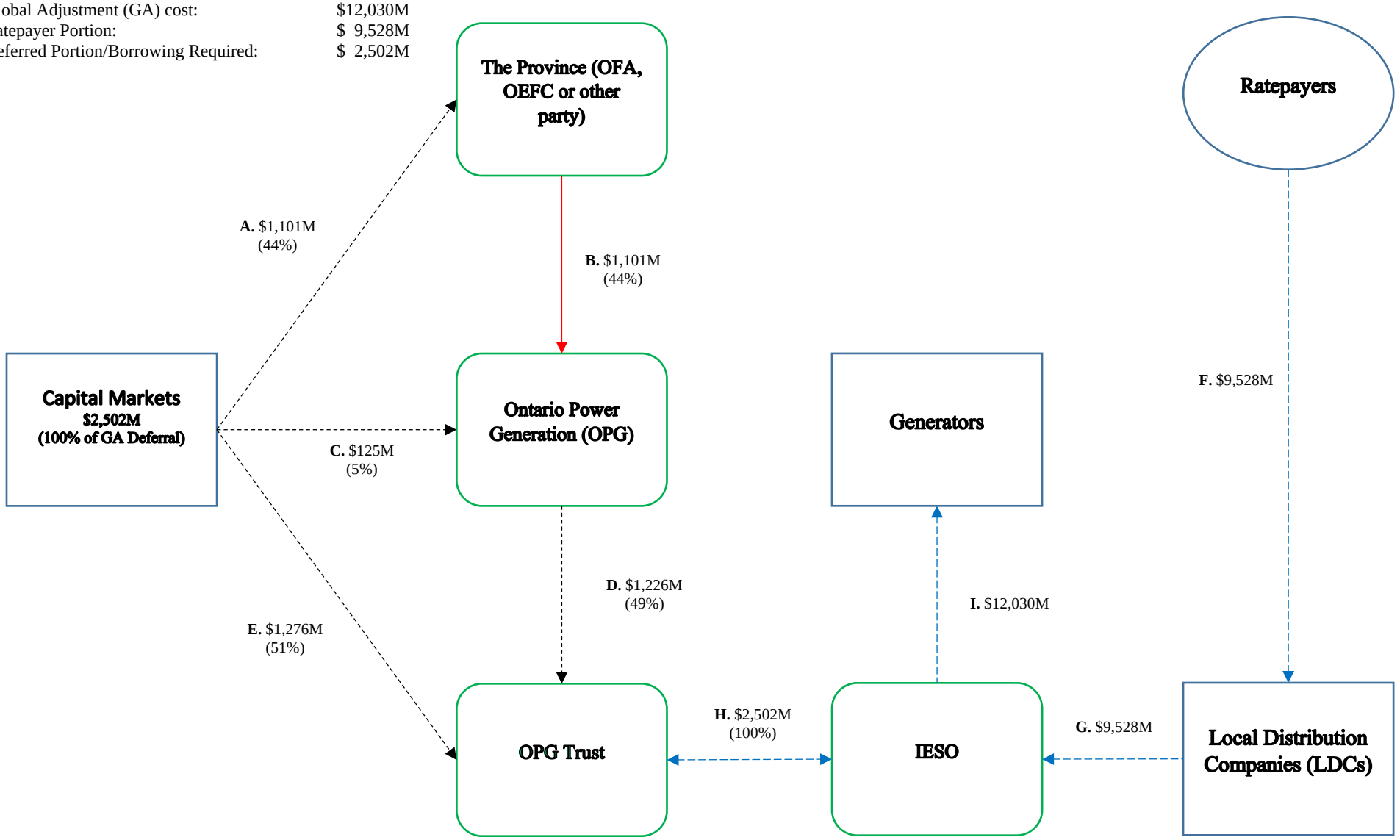
Collection of Interest Payments (*refer to Exhibit C*)

- There are different potential accounting treatments, depending on legislative and regulatory approval, that would impact the amount of borrowing and interest over the long term as well as the total fiscal impact.
    - **Option 1: Collect interest and administrative costs from ratepayers on an on-going basis:** Interest and the costs to finance/administer the GA deferral mechanism would be recovered from ratepayers along the way. This would allow cash and income to be recognized by OPG Trust equivalent to the total borrowing cost from the market (i.e., the interest on the 44% of the GA the Province borrowed from the market, the 5% of the GA OPG borrowed, and the 51% of the GA OPG Trust borrowed). Furthermore, some type of additional return for the risk premium could be made. Overall, there would be no fiscal cost, and less debt would build up over time due to the elimination of the compound effects on interest.
    - **Option 2: Collect interest costs associated with the senior debt**: There are variations on this concept which essentially proposes to only collect some of the interest costs from ratepayers, with the senior debt that OPG Trust borrows directly from the market of primary concern. This is "meeting halfway" between deferring all interest payments and collecting all interest payments from ratepayers immediately.

- Option 3: **Do not collect from ratepayers**. There is a fiscal impact equal to 100% of the interest on the total borrowings as an expense still needs to be recognized, even though cash interest has not been paid. There is also a compounding effect on interest.
- Option 4: **No collection from ratepayers but deferral of expense recognition (Same as Energy's analysis in its Cabinet Submission)**. For this option, there is no collection of interest payments from ratepayers, but OPG Trust is somehow allowed to defer the recognition of interest expense on its books and recognize as a regulatory asset, thus eliminating the fiscal impact.
    - If OPG Trust were allowed to recognize a regulatory asset, then it could defer the interest expense, instead recognizing it as an asset (similar to the idea of a prepaid expense).
    - Thus, OPG would recognize interest income from OPG Trust, but OPG Trust would not recognize an expense related to the amount owed to OPG and instead would increase the regulatory asset by the same amount.
    - The interest income earned by OPG for the 49% of the GA deferral it borrowed would offset the borrowing the Province made from the capital markets.
    - OPG Trust would also defer the recognition of the interest associated with the 51% of the GA deferral it borrowed from the market. The deferred amount would be recognized in a regulatory asset.
    - When OPG starts collecting principal and interest from ratepayers, it will recognize income, but will also amortize the regulatory asset at the same time, thus matching revenue and expenses with each other in the time period and potentially eliminating the fiscal impact.
    - Many factors, including the initial accounting treatment and the effect of consolidation, are significant barriers to the application of this approach.
    - **Alternatively, OPG Trust might be able to recognize income (with a receivable created to balance the transaction) to offset the interest expense without collecting from ratepayers**, i.e., it will be a cash transaction in the future (cash received offset by a decrease in the receivable; no effect on income statement).

Exhibit A; 2017-2018 Estimates for Balance Sheet Transactions

Global Adjustment (GA) cost:	$12,030M
Ratepayer Portion:	$ 9,528M
Deferred Portion/Borrowing Required:	$ 2,502M



Setting up the Trust

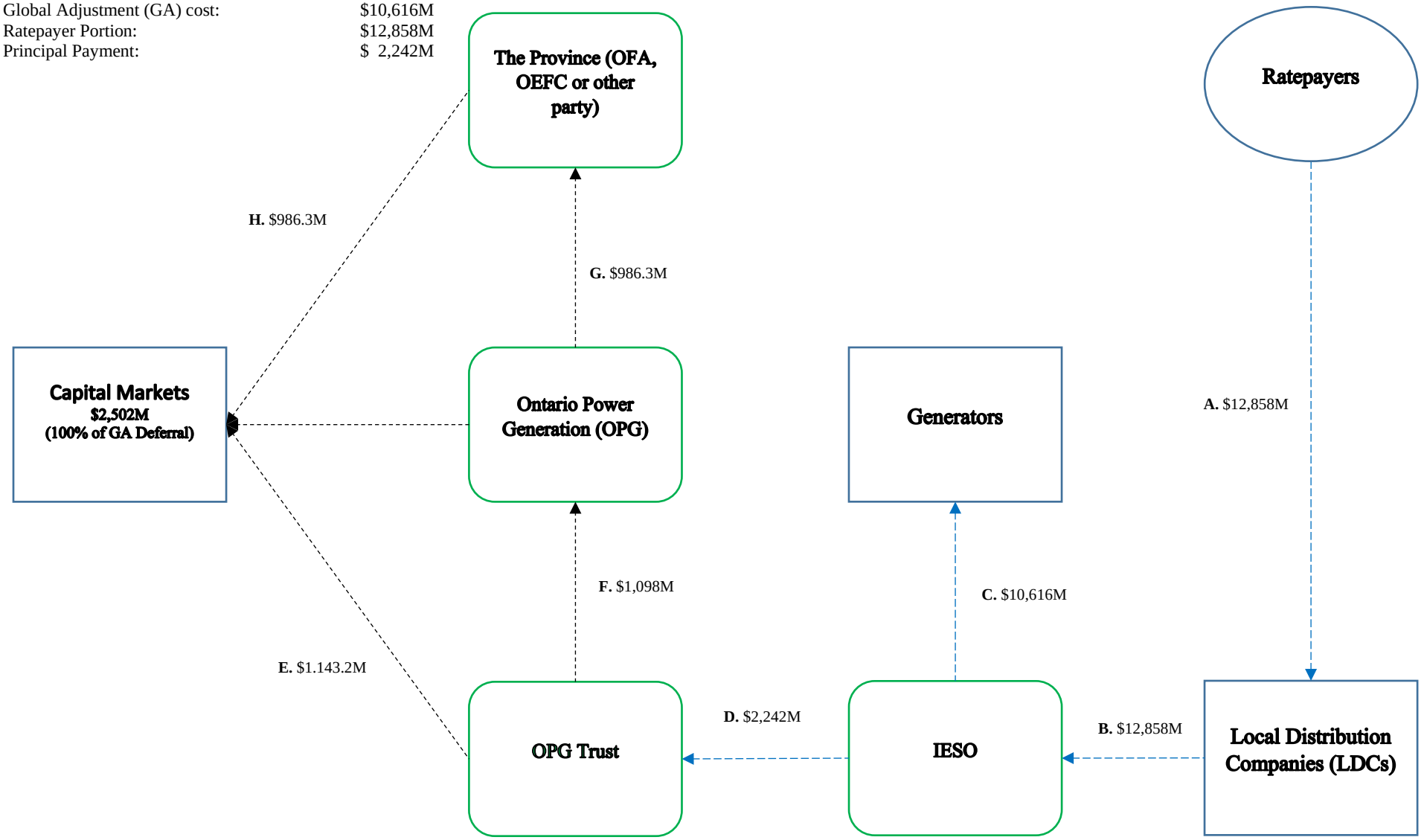
A. The Province borrows 44% of the deferred GA from the market.
B. The Province then funnels this amount to OPG through an equity injection.
C. OPG borrows 5% of the deferred GA from the market.
D. OPG lends an amount equal to the 5% and 44% from the market and the Province, respectively, to a separate legal entity called OPG Trust.
E. OPG Trust borrows 51% of the deferred GA from the market, ending up with 100% of the total $2.502M deferred GA in cash.

Deferral Mechanism

F. Ratepayers pay their portion of the GA to LDCs.
G. The LDCs remit this amount to IESO.
H. IESO, with the proper legislation and accounting treatment, is allowed to recognize a regulatory asset – the right to collect the deferred amount of $2,502M from ratepayers. It then sells this asset for cash to OPG Trust.
I. IESO uses the proceeds from the sale of the regulatory asset and the collection amount from LDCs to pay the full amount of the GA to Generators.

Exhibit B: 2028-2029 Estimates for Principal Payments

Global Adjustment (GA) cost:	$10,616M
Ratepayer Portion:	$12,858M
Principal Payment:	$ 2,242M



Collection of the GA

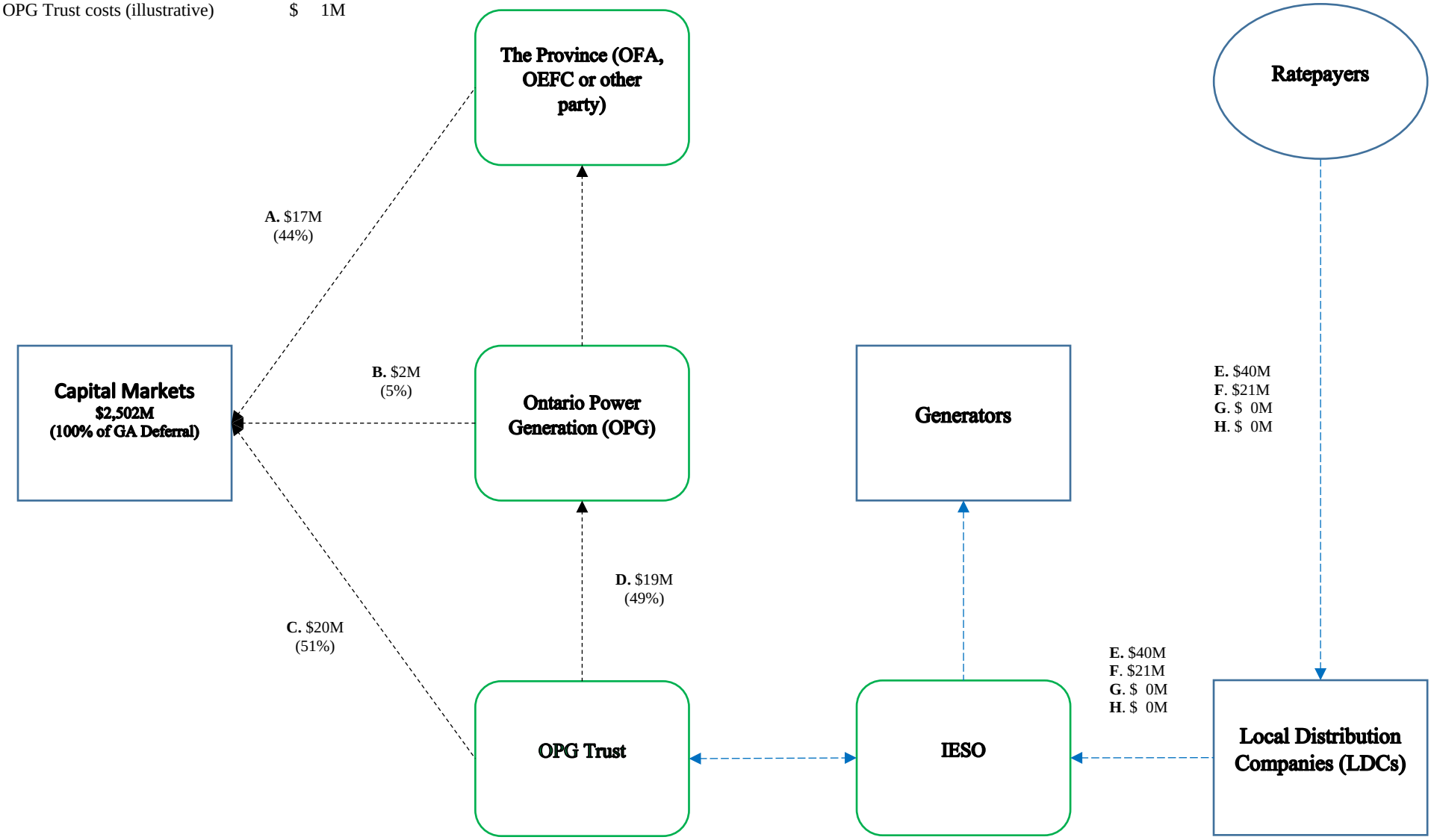
A. Ratepayers pay to LDCs the full cost of the GA plus an additional $2.242M that will be used to reduce the principal of the borrowing (or principal and interest if there is "interest on interest").
B. LDCs remit this amount to IESO.
C. IESO pays the full cost of the actual GA to generators.
D. IESO pays to OPG Trust the additional payment from the ratepayers over the actual GA cost. OPG Trust reduces the asset (for the right to collect GA deferral costs from ratepayers) by an equivalent amount.

Settlement of Principal.

E. OPG Trust pays off principal to the market. In this example, pays off 51%, but could pay more or less depending on various factors (e.g., subordinate debt, managing weighted average interest cost, etc.).
F. OPG Trust pays down principal related to the 49% of the GA Deferral it borrowed from OPG.
G. OPG could give a dividend to the Province equal in order to pay off the outstanding principal it borrowed from the market (44% of the total GA deferral cost)
H. The Province pays back principal to the market.

Exhibit C: 2017-2018 Estimates for Interest Recognition

Interest Recognized	$ 39M
OPG Trust costs (illustrative)	$ 1M



Recognition of Interest

A. The Province recognizes interest on the 44% of the deferred GA it borrowed from the market.

B. OPG recognizes interest on the 5% of the deferred GA it borrowed from the market.

C. OPG recognizes interest on the 51% of the deferred GA it borrowed from the market.

D. OPG Trust recognizes interest on the 49% of the GA it borrowed from OPG; OPG recognizes income for this transaction.

Options for Ratepayer collection

E. Option 1 – collect the entire interest amount from ratepayers plus the Trust administrative costs, thus offsetting the interest expense from total borrowing with the recognition of income. The end result is no fiscal impact.

F. Option 2 – only collect interest income for the 51% of deferred GA from the market and admin costs; OPG Trust would recognize income to offset the interest expense to the market but fiscal impact of 49% of the interest ($19M)

G. Option 3 – Do not collect from ratepayers – fiscal cost of 100% interest.

H. Option 4 – No collection from ratepayers, but OPG Trust is allowed to defer the recognition of interest expense on 100% of debt, leading to no fiscal impact.

Notes

- Assumptions based on Energy models and data, IESO forecasts, and CEFD validation models.
- Sources include Ministry of Energy decks, OPG reports and discussions, external accounting reports, and internal reports/discussions.

Corporate and Electricity Finance Division
Ontario Financing Authority
March 17, 2017

From:	Hanslep, Malle (MOF)
To:	Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Ronald Kwan
Cc:	Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Monday, May 29, 2017 9:18:42 AM

Hi all,

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Thank you.

Malle

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Best,

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From:	Ronald Kwan
To:	Malle Hanslep (MOF)
Cc:	Mike Manning; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 11:12:40 PM

Hi Malle,

It might be helpful to loop in Scott Nelms in advance via email, too, as he could provide some insights on Energy and OPG's perspectives, in advance of a meeting.

Ron

From: Hanslep, Malle (MOF)
Sent: Wednesday, May 31, 2017 11:29
To: Manning, Mike (OFA)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi all,

We had a very useful meeting with Blakes (Steven Ashbourne) and Energy Legal this morning. There are quite a few legal issues and concerns to discuss regarding this term sheet as it is overly broad. At this point in the development of the province's role in support, it seems that the development of this type of term sheet is premature given the uncertainties.

At our meeting we discussed, that a useful next step would be to have another meeting with Provincial representatives and Blakes which would include yourselves from the OFA, Energy legal and Energy reps as well as the Provincial Controller and likely TD as well as the Province's financial advisor so that we can all discuss next steps and the best approach.

In the meantime, Toby and I can have an internal call to give you an update on our meeting this morning. Possibly at 3pm today if that works.

Thanks.

Malle

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

>
> Hi Ron
>
> We are meeting on Wednesday morning so after that we could have a follow up
>
> Malle
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Ronald Kwan
> Sent: Monday, May 29, 2017 17:17
> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
>
>
> Hi Malle,
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> Thanks for the list.
>
> Would it be helpful if the group met again to discuss?
>
> When are you meeting with Energy Legal and Blakes?
>
> Ron
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> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> Malle Hanslep
> Deputy Director
> Ministry of the Attorney General
> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
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> _____
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From:	Ken Kandeepan
To:	Malle Hanslep (MOF); Mike Manning
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 5:18:44 PM

Unless Mike has any major concerns I would strongly advocate for her inclusion.

Thanks

Ken k

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 5:16 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Re: Provincial Support Term Sheet

Just a follow up to our call earlier, does it also make sense to invite Cindy Veinot provincial controller to the proposed meeting since accounting issues are also key.

Sent from my BlackBerry 10 smartphone on the Rogers network.
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Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
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Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
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> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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> Malle Hanslep
> Deputy Director
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> Telephone: 416-325-1457
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To: Mike Manning; Malle Hanslep (MOF); Ronald Kwan
Cc: James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan
Subject: RE: Provincial Support Term Sheet
Date: Wednesday, May 31, 2017 2:20:21 PM

If the OFA could set up that would be helpful. Thanks

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 31, 2017 12:45 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
Subject: RE: Provincial Support Term Sheet

Does Legal Services have a call-in or would you like the OFA to set up?

Mike

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From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 12:31 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: RE: Provincial Support Term Sheet

Yes 3:30 is fine with me too.

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From: Whitfield, Tobias P. (MOF)
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tobias.whitfield@ontario.ca
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Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
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Would 3:30 work?

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Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 12:30:47 PM

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> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> Subject: RE: Provincial Support Term Sheet
>
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> Sent: May 29, 2017 9:18 AM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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> Cc: Whitfield, Tobias P. (MOF)
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> Malle Hanslep
> Deputy Director
> Ministry of the Attorney General
> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
>
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From: Whitfield, Tobias P. (MOF)
To: Ronald Kwan; Mike Manning; Malle Hanslep (MOF)
Cc: James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan
Subject: RE: Provincial Support Term Sheet
Date: Wednesday, May 31, 2017 12:30:28 PM

3:30 is fine for me.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

-----Original Message-----
From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: May 31, 2017 12:24 PM
To: Manning, Mike (OFA); Hanslep, Malle (MOF)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi,

Either time works for me.

Ron

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From: Mike Manning
Sent: May-31-17 12:23
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: Provincial Support Term Sheet

Would 3:30 work?

Mike

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From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 11:30 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
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Thanks.

Malle

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Sent: May 29, 2017 8:44 PM
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Sent from my iPad

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> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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From:	Ronald Kwan
To:	Mike Manning; Malle Hanslep (MOF)
Cc:	James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 12:24:15 PM

Hi,

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From:	Mike Manning
To:	Malle Hanslep (MOF)
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	RE: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 12:22:58 PM

Would 3:30 work?

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 11:30 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
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From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Malle Hanslep (MOF); Ronald Kwan
Cc:	James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan
Subject:	RE: Provincial Support Term Sheet
Date:	Thursday, June 01, 2017 9:13:38 AM
Attachments:	Provincial Support Arrnagement - Preliminary Issues (May 31).pdf

---

FYI, attached is a scan of the comments on the term sheet from the lawyer at Blakes. We are working on an issues summary list to combine these comments with our earlier issues list, which we will circulate as soon as it is ready.

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 31, 2017 12:45 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
Subject: RE: Provincial Support Term Sheet

Does Legal Services have a call-in or would you like the OFA to set up?

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 12:31 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: RE: Provincial Support Term Sheet

Yes 3:30 is fine with me too.

-----Original Message-----
From: Whitfield, Tobias P. (MOF)
Sent: May 31, 2017 12:30 PM
To: Kwan, Ronald (OFA); Manning, Mike (OFA); Hanslep, Malle (MOF)
Cc: Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
Subject: RE: Provincial Support Term Sheet

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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
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-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 29, 2017 8:44 PM

To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Hi Ron
>
> We are meeting on Wednesday morning so after that we could have a follow up
>
> Malle
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Ronald Kwan
> Sent: Monday, May 29, 2017 17:17
> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
>
>
> Hi Malle,
>
> Thanks for the list.
>
> Would it be helpful if the group met again to discuss?
>
> When are you meeting with Energy Legal and Blakes?
>
> Ron
>
> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> Subject: RE: Provincial Support Term Sheet
>
> Hi all,
>
> Here is our issues list.
>
> Malle
>
> From: Hanslep, Malle (MOF)
> Sent: May 29, 2017 9:18 AM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
> Cc: Whitfield, Tobias P. (MOF)

> Subject: RE: Provincial Support Term Sheet
>
> Hi all,
>
> We are also putting together an issues list for discussion with Energy Legal and Blakes and will share it with you as well.
>
> Is there any type of draft term sheet for the proposed financing transaction itself or the master sales and servicing agreement? Any general description of the proposed transaction would be helpful to us.
>
> Thank you.
>
> Malle
>
> From: Hanslep, Malle (MOF)
> Sent: May 26, 2017 3:16 PM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: Provincial Support Term Sheet
>
> Hi all,
>
> Further to our meeting on Wednesday, Toby and I have now been in touch with Energy Legal regarding the term sheet and will be attending a meeting with counsel at Blakes next Wednesday morning.
>
> Best,
>
> Malle
>
>
>
> Malle Hanslep
> Deputy Director
> Ministry of the Attorney General
> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
>
> Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.
>
>
> _____
>
> This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

Provincial Support Arrangement

Here are some questions to frame our discussion at 9 a.m. this morning, based on the May 12th version of the Term Sheet:

1. Should the Province's support covenant run in favour of the indenture trustee (for beneficiaries) or only the finance entity and be pledged? This may impact matters such as whether the Province is seen as a 'co-issuer' under US securities laws and perhaps the Province's accounting treatment.

2. Should the support covenant be given in respect of all potential claimants from the financing entit(y/ies), or only specified creditors? For example, should the 'subordinated notes' be given the full benefit of the support covenant?

3. Should the support covenant be given up-front in an open-ended, program-wide fashion, or be given in relation to individual transactions and specified creditors of the financing entity at the relevant time of transacting and only for the duration of the relevant underlying obligations?

4. Should the support covenant purport to extend to more than one financing entity?

5. Extending the arrangement to 1 year beyond the latest obligation (broadly construed) essentially means the support covenant will hang out there indefinitely – is this intended?

6. Is the scope of the "performance guarantee" (i.e., servicing, commingling; EV's and IESO) appropriate? Should we make clear that it would not extend to "seller" obligations arising under the MSSA? Can the Province commit to "perform or cause the performance" as a powers matter?

7. Consider the deletions of the "Performance Guarantee Event" concept. As marked up, the performance guarantee would not require any process to first pursue remedies against IESO.

8. If a "payment guarantee" is to be provided, it will raise issues for the Province, including accounting treatment and scope of the support undertaking. Has this sort of investigation been undertaken by the Province at this point?

9. Consider the overall scope of the "payment guarantee event" provision. Issues include the risk that an amendment of the Act or Regulation has a non-material, incidental impact on the timing of payment (i.e., the receipt of funds from an EV), which triggers an effective put at a premium. Another is that a lower court finding of *ultra vires* could trigger the obligation, rather than a "final, non-appealable decision".

10. Should the support arrangement extend to cover "invalidity" or "unenforceability" (see (C) under "Payment Guarantee Event") that arises for reasons other than the validity of the Act and Regulation (e.g., if the actual funding obligation, which the Province may not even be aware of, is impugned for an unrelated reason, such as entity governance or contracting issues)?

11. The "market disruption" provision (see (D) under "Payment Guarantee Event") needs considerable further thought and refinement (e.g., as proposed, the event is based on the ability to refinance the particular funding obligations, rather than "general market disruption"). Is the Province prepared to be a standby purchaser of any funding obligations in any market-based illiquidity scenario? Note that private market liquidity or "extendable note features" may be available at a cost. In any event, support from the Province of this type should probably only be addressed very specifically and at the time of the specific transaction and narrowly with respect to the obligations for which this sort of protection is specifically required. Note that depending on the maturities incurred under the financing plan, this could cause a major funding requirement for the Province.

12. The "stand-in" payment provisions contemplated in clause (x) under "Payment Guarantee" need to be better understood. Assuming that they result in the rating of any bonds being downgraded to the Province's then rating, should the Province have a redemption option in that scenario?

13. The "put at a premium" provisions contemplated in clause (y) under "Payment Guarantee" would need to be refined so that the entire structure (i.e., all related finding obligations, such as swaps, sub debt and liquidity commitments) would be 'unwound' in total, rather than only certain debt to avoid standing or perpetuating attendant obligations. Is the 101% pay-out always appropriate? If the Province is liable for payments under obligations, will it need certainty as to the underlying terms and conditions?

14. What is the consequence of the market disruption scenario described in (D) under "Payment Guarantee Event" – it doesn't seem to be covered under "Payment Guarantee"?

15. The postponement of subrogation rights is a problem. In effect, a payment to a senior ranking creditor would provide credit enhancement to all junior ranking obligations which may not have been the intended beneficiaries of the support arrangement (including service providers and sub debt). The general approach to subrogation needs to be considered at the time of incurrence of a funding obligation in relation to the particular scenario and circumstances.

16. "Notice", "Closing", "Governing Law" and other mechanics will need to be revised as required to the extent that the provision of support is intended to be transaction-specific, creditor-specific, etc.

17. To the extent that the support is given up-front, the Province will need to have the benefit of its own very specific condition precedents, including to approve each future transaction and finding obligation – would this disrupt the accounting treatment anticipated for OPG based on excessive control over financings?

18. Consider whether accepting or acknowledging "customary representations" and "customary confidentiality obligations" in this context makes sense. Customary for the Province?

19. Has anyone considered the Province's related governance requirements and related due diligence (e.g., the implications of a US offering under US securities laws). In the absence of a structure and contracts, how can the Province be assured that it is not

inadvertently becoming liable for unintended obligations, duties and liabilities (e.g., servicer buy-backs; "servicer advances"; entity-level tax payments; etc.)?

20. Has the Province's own accounting treatment for these been investigated? What limitations should be tabled at this stage?

21. Does the Province have concerns regarding potential for incongruences between the level of actual "independence" from the Province and public perception in relation to the OFHPA generally?

From: John Kim
To: Ronald Kwan
Subject: RE: Question - Provincial Support Agreemnt
Date: Thursday, July 27, 2017 9:58:31 AM

Hi Ron,

We will be at a position to share a draft SLA with Energy sometime later today. I have a question that I posed to Ken R. in that the draft refers to the Minister for even operational items and whether that was on purpose.

Would you like to take a look before it goes to Energy?

John

From: Ronald Kwan
Sent: Thursday, July 27, 2017 9:56 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: Question - Provincial Support Agreemnt

Thanks John.

Ron

From: John Kim
Sent: July-27-17 09:28
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: Question - Provincial Support Agreemnt

But I think Toby is referring to the SLA, not support agreement.

So will follow up with him and others further.

John

From: John Kim
Sent: Thursday, July 27, 2017 9:26 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Question - Provincial Support Agreemnt

Fyi.

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, July 27, 2017 9:05 AM
To: John Kim <John.Kim@ofina.on.ca>

Subject: RE: Question - Provincial Support Agreemnt

John,

I have been in touch with Energy Legal, and they have been working on drafting. They are going back to the policy folks on their side, and trying to better set out what roles everyone will play in the process. If you haven't heard from them on this, maybe it makes sense for you to reach out to them (and Kaitlin).

I think that the roles and process needs to be set out before we can move the drafting forward.

I think it probably makes sense for your team to have a discussion with Kaitlin as well as policy staff at ENERGY to figure out what the process for making calculations and confirming monthly calculations should be. My sense is that ENERGY thinks that the OFA should be doing the analysis on a monthly basis, but I have no basis for making such a call. It is an ENERGY program, and the Minister of Energy will be making the share purchases, but I am not sure where the expertise or the role lies for the analysis should be, or what kinds of confirmations/analysis is even being done on a monthly basis. If you can work that out with Kaitlin/ENERGY, then we can move forward with the drafting.

Happy to discuss further.
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: July 26, 2017 9:03 PM
To: Whitfield, Tobias P. (MOF)
Subject: Question - Provincial Support Agreemnt

HI Toby,

Just wanted to get a sense of where things were with respect to the support agreement.

I've been a bit out of the loop on it and looking to update Ron.

Thanks,

John

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	John Kim
To:	Ronald Kwan
Subject:	RE: Question - Provincial Support Agreemnt
Date:	Thursday, July 27, 2017 9:27:40 AM

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So will follow up with him and others further.

John

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Sent: Thursday, July 27, 2017 9:26 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Question - Provincial Support Agreemnt

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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance

tobias.whitfield@ontario.ca
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From:	John Kim
To:	Ronald Kwan
Subject:	RE: Question - Provincial Support Agreemnt
Date:	Thursday, July 27, 2017 10:17:04 AM
Attachments:	OFA - MoE MOU Fair Hydro Plan(v3) - with Risa Thau"s comments and questions_CEFD.docx

Pls. see attached draft. I don't believe the comments are all that relevant.

John

From: Ronald Kwan
Sent: Thursday, July 27, 2017 10:00 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: RE: Question - Provincial Support Agreemnt

Hi John,

Yes, I'd like to take a look.

Would CMD have been reviewing too, and FTD?

It might be good to have a summary of the key points too, for Gadi, if he has not been briefed by others on this draft.

Ron

From: John Kim
Sent: July-27-17 09:59
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: Question - Provincial Support Agreemnt

Hi Ron,

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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: John Kim [mailto:John.Kim@ofina.on.ca]
Sent: July 26, 2017 9:03 PM
To: Whitfield, Tobias P. (MOF)
Subject: Question - Provincial Support Agreemnt

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Memorandum of Understanding
Relating to the
Fair Hydro Plan

Dated: XXXXXXX

Between:

Her Majesty the Queen in right of Ontario
as represented by the Minister of Energy (the "**Minister**")

And:

Ontario Financing Authority
an agency of the Province of Ontario (the "**OFA**")

Whereas:

1. The Government of Ontario enacted the *Ontario Fair Hydro Act, 2017* (the "Act") to implement its Fair Hydro Plan (the "FHP").

2. The Act and the regulations promulgated under the Act (the "Regulations") create certain assets related to the deferral of electricity charges (the "Assets"), which Assets will be acquired from the Independent Electricity System Operator ("IESO") by the Fair Hydro Trust, a special purpose financing entity established by OPG to implement the FHP

3. The Fair Hydro Trust will acquire the Assets monthly from the IESO and will finance the Assets 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. The Minister has agreed to fund up to 44% of the total funding requirement for the Assets through equity injections in OPG and OPG has agreed to use the equity injections solely for funding the Fair Hydro Trust's subordinated debt (the "Equity Injection Plan").

5. For purposes of the Equity Injection Plan, OPG has amended its articles to create a new class of non-voting, redeemable shares (the "Class A Shares").

6. The Minister will subscribe for Class A Shares monthly.

7. Each month OPG will deliver to the Ministry a share subscription form (the "Share Subscription") setting out the amount of equity injection required (the "Subscription Payment") and the corresponding number of Class A Shares to be issued by OPG and subscribed by the Minister.

Commented [GH1]: Ministry of Energy or the Minister?

Commented [RT2]: Will the Class A Shares be book-based and issued by OPG's fiscal agent, Computershare, or are the shares physical and issued directly by OPG? Where will the shares be delivered – the Province's custodian, currently CIBC Mellon, or the OFA (if the shares are physical).Will the OFA hold the shares in a Provincial account at our custodian or in the OFA's vault if in physical format?

8. The Minister is required to pay the Subscription Payments out of amounts appropriated by the Legislature for that purpose ("Appropriated Amount") for the fiscal year in which the payment is made;

9. The Minister has advised the OFA that the Minister is required to make the Subscription Payments within [*] business days of the receipt by the Minister of the Share Subscription (the "Share Subscription Payment Date")

10. The Minister considers it advisable for the OFA to make the Subscription Payments on behalf of the Minister and the OFA has agreed to make the Subscription Payments on behalf of the Minister;

11. The Minister and the OFA wish to enter into this MOU to confirm their agreement regarding the terms on which the OFA will make the Subscription Payments.

Therefore:

The Minister and the OFA agree as follows:

1. Payment Authorization

(i) The Minister authorizes the OFA to make the Subscription Payments on behalf of the Minister and the OFA agrees to make the Payments on behalf of the Minister.

(ii) The Minister shall ensure that the certificate under section 11.4 of the *Financial Administration Act* (reproduced as Schedule A to this MOU) required for each of the Subscription Payments is obtained, and shall provide the OFA with a copy of such certificate.

(iii) It is agreed by the Minister and the OFA that the OFA is acting as an agent, on behalf of the Minister, for the purposes of

i. Transacting with the Ontario Shared Services "IFIS" system in order to access funds appropriated for the Minister in respect of the Fair Hydro Plan, and

ii. Making the required Subscription Payments on behalf of the Minister as further described in this MOU.

2. Payment Process

a) The Minister will take all necessary steps to provide the OFA with a good quality unapproved electronic copy of each Share Subscription, on the same day the Minister receives the Share Subscription from OPG to allow the OFA to begin the procedures for making the Subscription Payment.

b) The Minister will deliver to the OFA a good quality copy of each Share Subscription executed and approved for payment by **[insert appropriate MoE official]** - at least three business days before the Share Subscription Payment Date. Upon receipt of the executed and approved Share Subscription the OFA will make the Subscription Payment on behalf of the Minister, in the amount of the Share Subscription.

c) The OFA shall not be required to make any Subscription Payment on behalf of the Minister if the Minister has not delivered to the OFA an executed and approved Share Subscription as provided in paragraph b) above.

d) The Subscription Payments will be made from the Consolidated Revenue Fund and the amount of each Subscription Payment will be entered by the OFA via a journal entry into the Province's IFIS system under a pre-defined Minist~~er~~ry of Energy ~~-~~account immediately upon the completion of the Subscription Payment or shortly thereafter.

Commented [RT3]: Usually when the OFA makes a payment for a ministry, we book a debit entry to an Accounts Receivable Miscellaneous and the appropriate Ministry books a corresponding credit entry.

3. Reporting Requirements and Records

a) The OFA will deliver a notice by e-mail to the Minister's contact person to confirm the completion of each Subscription Payment in the amount of the Share Subscription.

b) The OFA will keep and maintain all records related to the Share Subscriptions for a period of seven (7) years.

c) The requirements under this section shall survive any termination of the MOU.

d) The Public Accounts, Volume 3 reporting related to the Subscription payments will be performed by the Minister.

4. Limited Role of the OFA

The OFA will only be responsible for making the Subscription Payments in accordance with section 2 and reporting and record keeping in accordance with section 3. For greater clarity, the OFA will not be responsible for auditing or otherwise verifying the correctness of the Share Subscriptions; monitoring the OPG's application of the Subscription Payments; monitoring the balance from time to time of the Appropriated Amount; or ensuring the Appropriated Amount is sufficient.

Commented [KK4]: I am just a little concerned by this, if we make a payment and there's insufficient appropriations there is a really significant issue. Hence we need to incorporate some control mechanism that ensures along with the Share subscription delivered to us there's some kind of assurance by MOE that sufficient funds exist within the relevant appropriation to cover the upcoming payment.

5. Review and Termination

a) The Minister and the OFA will review this MOU as necessary.

b) This MOU may be terminated by either party at any time, on 90 days' notice.

c) Upon termination of this MOU, provided the OFA has the power and authority to make such Subscription Payments the OFA will make Subscription Payments in respect of executed and approved Share Subscriptions delivered by the Minister to the OFA on or before the date of termination in accordance with subsection 2(c) of this MOU, but will not be obligated to make any further Subscription Payments on any executed and

approved Share Subscriptions delivered by the Minister to the OFA after the date of termination of this MOU. All provisions of this MOU relating to Subscription Payments made by OFA will continue to apply with respect to such Subscription Payments made by the OFA after the termination date, notwithstanding termination of this MOU.

d) The parties will cooperate to help to ensure a smooth transition of the payment function upon termination.

6. No Service Charges

The OFA will not charge the Minister for the OFA's services or for its disbursements or other expenses incurred under this MOU.

7. Contacts

a) Each party shall designate a member of its staff to be a contact person for the purposes of administering this MOU.

b) As of the date of this MOU the OFA's contact persons are:

Tel:
email:

Tel: email:

should also be sent to:

Tel: email: & email:

c) As of the date of this MOU the Minister's contact person is:

Tel:
email:

d) Either party may designate a different member of its staff as its contact person by providing notice to the other party in accordance with section 7.

8. Notice

a) Any notice under this MOU shall be in writing and shall be deemed given when delivered by hand or email, and addressed to the party's contact person.

b) In the case of the OFA, the addresses for notice are:

Hand Delivery:
Ontario Financing Authority
Suite 1400
1 Dundas St. W.
Attention: Ken Kandeepan, Chief Financial and Risk Officer
email: Ken.Kandeepan@ofina.on.ca

c) In the case of the Minister, the addresses for notice are:
Hand Delivery:
Ministry of Energy

9. Execution

The parties have executed this MOU, effective as of the date first above written.

Her Majesty the Queen in right of Ontario
as represented by the Minister of Energy

by:_____

name:
title:

Ontario Financing Authority

by:_____

name:

title:

SCHEDULE A

Section 11.4, *Financial Administration Act*, R.S.O. 1990, c. F.12

11.4 (1) No payment shall be made out of the Consolidated Revenue Fund unless, in addition to any other voucher or certificate that may be required, a person referred to in subsection (2) certifies,

(a) in the case of a payment for the supply of goods or the rendering of services after the goods are delivered or the services are rendered, that the goods have been supplied or the services have been rendered and that,

(i) the payment is in accordance with the agreement, or

(ii) the amount of the payment is reasonable, if the amount of the payment is not specified in the agreement;

(b) in the case of a payment for the supply of goods or the rendering of services before the delivery of the goods or the supply of the services, that the payment is in accordance with the agreement; or

(c) in the case of a payment not described in clause (a) or (b), that the payee is eligible for or entitled to the payment. 2002, c. 8, Sched. B, s. 2.

Persons authorized to certify payments

(2) Only the following persons have authority to give a certificate under subsection (1):

1. A minister or deputy minister.
2. The Speaker of the Assembly.
3. The Auditor General.
4. The Chief Electoral Officer.
5. A person authorized by the Management Board of Cabinet.
6. A person authorized by a person referred to in any of paragraphs 1 to 5. 2002, c. 8, Sched. B, s. 2; 2004, c. 17, s. 32; 2007, c. 15, s. 40 (1).

From:	John Kim
To:	Ronald Kwan
Cc:	Deena Padamadan
Subject:	RE: Questions
Date:	Thursday, August 24, 2017 4:03:31 PM
Attachments:	CQSD Questions.docx

Pls. see attached quick draft.

From: Ronald Kwan
Sent: Thursday, August 24, 2017 2:52 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>
Subject: FW: Questions

Hi John,

Please draft some responses.

Thanks,
Ron

From: Anna Strathy
Sent: August-24-17 14:15
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: FW: Questions

Hi Ron,

We've received the following questions from CQSD and they'd like us to address Q's 1-3. Should I distribute to MOF legal (Malle?) for question 3? I'm not sure what sort of answer we would provide for the first two.

I've asked what the ultimate purpose of these questions are, but no response yet.

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Thursday, August 24, 2017 1:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Questions

Hi Matt,

Can you confirm the following 1 thru 3. I'm working on 4 and 5. If you have any questions please let me know.
Thanks,
Anthony

1) What is the urgency for tracking the September 26th board date?
2) Do you know if OFA has engaged the DMO/MO and if they are in agreement with tracking this board date?
3) Do we know when legal will be signing off on the submission?
4) What are the expectations around engaging/seeking MOE Minister signoff/agreement?
5) Has TBS indicated whether or not a MO-to-MO reach out will be required since this is blowing the 3-week rule?

Can you confirm the following 1 thru 3. I'm working on 4 and 5. If you have any questions please let me know.

Thanks,

Anthony

1) What is the urgency for tracking the September 26th board date?
   The first bond issue by OPG Financing Entity is expected the fall timeframe (around October/November). Once the guarantee is in place, the Financing Entity will require finalization of documentations, undertake activities such as investor road shows, etc. As a result, the September timeline can be considered to be on FHP's critical path.

2) Do you know if OFA has engaged the DMO/MO and if they are in agreement with tracking this board date?
   OFA staff are of the understanding that DMO/MO fully support the timely implementation of all aspects of the FHP and are kept well informed of developments related to the implementation of the FHP, including this item.

3) Do we know when legal will be signing off on the submission?
   Yes, both MOF Legal and Energy Legal will be signing off on the submission, as legal staff are involved in reviewing the term sheet and as part of the normal sign-off process.

4) What are the expectations around engaging/seeking MOE Minister signoff/agreement?
   OFA staff understand that as contemplated under the Ontario Fair Hydro Plan Act, both Ministers would have to agree to the guarantee following an Order-in-Council. Energy staff are preparing to brief the Minister of Energy in the week of August 28, 2017.

5) Has TBS indicated whether or not a MO-to-MO reach out will be required since this is blowing the 3-week rule?
   While OFA staff are not aware of any discussions about the MO-to-Mo outreach to-date, it would be reasonable to assume that all MO's involved are aware of this item and the timeline involved.

From:	Ken Kandeepan
To:	Tobias P. Whitfield (MOF); Carlos Yep; John Kim; James Devine; Ronald Kwan; Salman Qadir
Cc:	Malle Hanslep (MOF); Mike Manning; "Veinot, Cindy (TBS)"
Subject:	RE: Revised Version of Provincial Support Arrangements
Date:	Tuesday, June 20, 2017 11:40:52 AM

Hi all

I don't have any comments on the revised version, however, I do have a proposal that may address a number of the practical issues that were discussed yesterday, assuming the occurrence of an indemnification event.

OPG provides a guarantee to the Trust, somewhat similar to their initial draft, the Province provides OPG an indemnity against the aforementioned guarantee. Given that the current language refers to "each financing entity" perhaps that what we are doing right now, however, I am not very clear on that.

Feel free to shoot this down, I am also cc'ing Cindy since this approach may address some of the accounting concerns that may arise from the need for the Trust to be independent from the Prince yet be backstopped by a Provincial Protection and Assurance.

Thanks

Ken k

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Tuesday, June 20, 2017 9:38 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Salman Qadir <Salman.Qadir@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: Revised Version of Provincial Support Arrangements

Please see attached, for your review and comment, a revised draft that Stephen prepared based on our conversation yesterday. MOF Legal has no further comments on this draft.

I think that the two significant changes to note are:

1. The addition of the concept of "third party claims" as the driver of the indemnity section, meaning that the Indemnitee (which is a Financing Entity) can only bring a claim after a claim has been brought against them by a creditor.
2. The addition of the concept of conditions that would be required to step in in the event of funding mismatches, such as a market disruption event. As discussed yesterday, this provision is soft, so it is not clear what exactly this commits the Province to, but does give some comfort based on the language in this section.

Since there is a large group on this email, I think the best approach is to wait until noon for comments. If there are none by then, I will let Stephen and Energy know that we are ok with the draft, and Scott Nelms and whoever else needs to be involved with opening the discussions with OPG can use this version.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: ASHBOURNE, STEPHEN [mailto:STEPHEN.ASHBOURNE@blakes.com]
Sent: June 19, 2017 8:32 PM
To: Hanslep, Malle (MOF); McKinlay, Tom (ENERGY); Whitfield, Tobias P. (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); Nelms, Scott (MOF)
Subject: Revised Version of Provincial Support Arrangements

Hi. As a follow-up to our meeting earlier today, here is a revised version of the draft term sheet. The blackline shows changes from the June 14th version. Please let me know if you have any questions or concerns with the comments – including the deletion of the 'privilege' reference. Scott has the OFA's green light to share the draft term sheet with OPG. Please send along any final thoughts as soon as you can. The plan will be for Scott to send it out tomorrow morning. Thanks, Steve

Stephen R. Ashbourne
Partner
stephen.ashbourne@blakes.com
Dir: 416-863-3086

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000, Toronto ON M5L 1A9
Tel: 416-863-2400 Fax: 416-863-2653
blakes.com[blakes.com] | **Twitter**[twitter.com] | **Unsubscribe**[blakes.com]

Blake, Cassels & Graydon LLP | Barristers & Solicitors | Patent & Trade-mark Agents
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From:	Anna Strathy
To:	Anthony Reiss (MGS); Tobias P. Whitfield (MOF); Gadi Mayman; Malle Hanslep (MOF); Keley Katona (ENERGY); Hilary Cox (ENE); Mike Manning; Ronald Kwan; Ken Kandeepan; Thouin, Alena (ENERGY); Tom McKinlay (MAG)
Subject:	RE: TB Submission for Change of Law Protection Agreement
Date:	Tuesday, September 12, 2017 7:08:52 PM

Thanks Anthony, I will update the slide deck (although I'm not sure the submission will be stable until it's signed off by the Ministers!)

Who is the TBS analyst on this?

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, September 12, 2017 3:35 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Subject: RE: TB Submission for Change of Law Protection Agreement

Thanks Toby!

Hi Anna,

Based on the changes I would require an updated slide deck. We have another TBS analyst who would be taking this forward so would like to give him a copy of the submission once everyone is comfortable that the submission is stable. Still need to make sure that we are consistent with the request to TB/MBC and the minuting at the end.

Thanks,
Anthony

From: Whitfield, Tobias P. (MOF)
Sent: September 12, 2017 2:45 PM
To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Manning, Mike (OFA) <Mike.Manning@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Subject: TB Submission for Change of Law Protection Agreement

Please find attached a markup of the TB submission, as well as a revised term sheet and OIC.

The term sheet is as we have discussed further with Blakes, and as revised by them to reflect our discussions. The document has been renamed to a “protection agreement” because the authority and the obligation is not necessarily an assumption of the obligations of a Financing Entity, and is rather the payment of such obligations. I have attached both the clean and blacklined versions.

The OIC draft is an update of the latest version that was circulated, with the notes to draft removed as there were no further comments.

We have marked up the TB submission to reflect the current status of the negotiation of the term sheet and subject to necessary approvals. We have deleted the attached term sheet from the markup so that the revised version can be inserted instead. We also think it makes sense to include the draft OIC in the TB materials.

Please let me know if you have any comments or questions.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From:	Reiss, Anthony (MOF)
To:	Tobias P. Whitfield (MOF); Gadi Mayman; Malle Hanslep (MOF); Anna Strathy; Keley Katona (ENERGY); Hilary Cox (ENE); Mike Manning; Ronald Kwan; Ken Kandeepan; Thouin, Alena (ENERGY); Tom McKinlay (MAG)
Subject:	RE: TB Submission for Change of Law Protection Agreement
Date:	Tuesday, September 12, 2017 3:34:39 PM

Thanks Toby!

Hi Anna,

Based on the changes I would require an updated slide deck. We have another TBS analyst who would be taking this forward so would like to give him a copy of the submission once everyone is comfortable that the submission is stable. Still need to make sure that we are consistent with the request to TB/MBC and the minuting at the end.

Thanks,
Anthony

From: Whitfield, Tobias P. (MOF)
Sent: September 12, 2017 2:45 PM
To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Manning, Mike (OFA) <Mike.Manning@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Subject: TB Submission for Change of Law Protection Agreement

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Please let me know if you have any comments or questions.

Toby

Tobias Whitfield
Counsel, Legal Services Branch

Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From:	Reiss, Anthony (MOF)
To:	Anna Strathy; Tobias P. Whitfield (MOF); Gadi Mayman; Malle Hanslep (MOF); Keley Katona (ENERGY); Hilary Cox (ENE); Mike Manning; Ronald Kwan; Ken Kandeepan; Thouin, Alena (ENERGY); Tom McKinlay (MAG)
Subject:	RE: TB Submission for Change of Law Protection Agreement
Date:	Tuesday, September 12, 2017 8:43:22 PM

Hi Anna,

The TBS analyst will be James Strang.

We can touch base in the morning. I should be in early (7ish).

Thanks,
Anthony

_____

From: Anna Strathy [Anna.Strathy@ofina.on.ca]
Sent: September 12, 2017 7:08 PM
To: Reiss, Anthony (MOF); Whitfield, Tobias P. (MOF); Mayman, Gadi (OFA); Hanslep, Malle (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Thouin, Alena (ENERGY); McKinlay, Tom (ENERGY)
Subject: RE: TB Submission for Change of Law Protection Agreement

Thanks Anthony, I will update the slide deck (although I'm not sure the submission will be stable until it's signed off by the Ministers!)

Who is the TBS analyst on this?

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Sent: Tuesday, September 12, 2017 3:35 PM
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
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Anthony

From: Whitfield, Tobias P. (MOF)
Sent: September 12, 2017 2:45 PM
To: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>; Katona, Keley (MOF)

<Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; Cox, Hilary (ENERGY)
<Hilary.Cox@ontario.ca<mailto:Hilary.Cox@ontario.ca>>; Manning, Mike (OFA)
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<Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; Thouin, Alena (ENERGY)
<Alena.Thouin@ontario.ca<mailto:Alena.Thouin@ontario.ca>>; McKinlay, Tom (ENERGY)
<Tom.McKinlay@ontario.ca<mailto:Tom.McKinlay@ontario.ca>>
Subject: TB Submission for Change of Law Protection Agreement

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Please let me know if you have any comments or questions.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
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tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
Phone: 416-325-1456

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From: John Kim
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 7:25:26 PM
Attachments: 01 - IESO-OFA - FHP LoC - Intercept Directive v9.docx

---

Hi Ron,

Pls. see attached.

I can share with Legals folks – qualifying as pending finalization/review.

John

From: Ronald Kwan
Sent: August-17-17 12:33 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

See the attached on the BN.

I have not yet reviewed the draft directive.

Ron

From: John Kim
Sent: August 17, 2017 12:09 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, here you go.

Last two are new comments received today.

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:02 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks John.

Ron

From: John Kim
Sent: August 17, 2017 12:01 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, might have to do with CMD and FTD involvement on the guarantee. I like everyone's involvement on such a difficult and challenging file/request!

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:59 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I hope that works for you. Not sure why Anna would have to do this, as she is not really familiar with the file, so she'll need a lot of assistance.

Ron

From: Anna Strathy
Sent: August 17, 2017 11:50 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks very much, Ron.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:50 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna,

Some suggestions, as discussed. It might be better to reframe this under a request for OIC approval.

I will commit that CEFD staff are available to provide further input into such a submission -- (thanks John, et al!).

Ron

From: Anna Strathy
Sent: August 17, 2017 10:25 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

I have incorporated Ken's comments into the correct template. If you haven't yet started editing the document sent yesterday, please use the attached. I've added some additional background detail

that will require review.

If I could please ask for any comments asap that would be much appreciated. I'll be sending to OPCD, Energy and MOF early this afternoon for comment.

From: Ken Kandeepan
Sent: Wednesday, August 16, 2017 2:45 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna

Sorry I couldn't attend the Management meeting, I wanted to provide my comments and edits before I left, pls let me know if you have any questions. I would also hope that OPG will be able to provide a draft of the guarantee itself that can also be attached.

Finally, you should also reserve a space in the submission for comments from MOF Legal and Stephen Ashbourne.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, August 16, 2017 1:49 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Good afternoon,

Please find attached, a draft TB Submission on the Provincial Guarantee, for your review and comment. The Ministry of Energy is expected to bring this submission forward, with a status update on the FHP and input from the OFA. While the TB meeting date is still TBD, Gadi asked that we draft of input to the submission before the end of the week (when Gadi, Ron, and Ken leave on vacation).

Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.

Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

OFA -- IESO CREDIT FACILITY ~~IES~~MINISTER OF FINANCE DIRECTIVE TO EXEMPT THE INTERCEPT PROVISION ("INTERCEPT EXEMPTION DIRECTIVE") REQUIRED UNDER THE OFA'S LENDING POLICY

BACKGROUND

The Independent Electricity System Operator ("IESO") requested a revolving credit facility ("the credit facility") in an amount of up to $2 billion from the Ontario Financing Authority ("OFA") to support its role in the implementation and participation under the *Ontario Fair Hydro Plan Act, 2017* ("OFHP Act"). In the same request, the IESO had requested a reduction to its existing credit facility from the current $975 million to $475 million.

On June 29, 2017, the OFA received ~~a~~ a l~~L~~ending d~~D~~irective from the Minister of Finance to accommodate the IESO's request and provide a revolving credit facility to the IESO in an amount of up to $2 billion (the "OFHP Credit Facility").

Pursuant to the OFA Lending Policy, the OFA is required to include an intercept provision in respect of loans made by the OFA to public bodies on an unsecured basis, unless otherwise directed by the Minister [or Treasury Board or Cabinet]. In accordance with section 23 of the *Capital Investment Plan Act, 1993* ("CIPA"), the intercept provision allows the OFA to deduct amounts equal to any amounts the public body fails to pay to the OFA under a loan agreement from money appropriated by the Legislature for payment to the public body.

Per the requirements of the OFA's Lending Policy, the OFA is returning to request a Minister's direction to exempt the requirement to include an ~~from the i~~Intercept p~~P~~rovision ~~both~~ in ~~its OFHP Credit Facility~~ the credit facility agreement with the IESO and the reduced $475 million credit facility ~~the new $2 billion credit facility to support the IESO's role in the Fair Hydro Plan and the reduced $475 million credit facility~~. [The existing $975 million credit facility is requested to be reduced to $475 million, in connection with the newly requested $2 billion credit facility.]

- ~~Note: The Intercept Provision under the OFA's Lending Policy for unsecured lending to a public body requires that, unless exempted by the Minister of Finance [or Treasury Board or Cabinet], the OFA put in place a provision whereby the OFA is entitled to deduct amounts equal to any amounts the public body fails to pay to the OFA under the loan, from money appropriated by the Legislature for payment to the public body.~~

RECOMMENDATION

- OFA staff recommend the Minister sign the attached Intercept Exemption Directive allowing the OFA to provide th~~ese~~ requested credit facilities~~y~~~~ies~~ to the IESO without the inclusion of an ~~an I~~intercept provision in the loan agreement~~under the OFA Lending Policy~~.

- The requested Intercept Exemption Directive would only apply to the two specified credit facilities.

CONSIDERATIONS

Commented [LS1]: After discussion with Ken Russell, we think the directive should be limited to the new credit facility agreement.

Commented [SK82R1]: I understand we are deciding to ensure both credit facilities are covered the Intercept Exemption Directive. Will revert language back accordingly.

Commented [JK3R1]: A business decision – which I am sure ADM/CEO would support

- ~~This The OFHP Credit Facility~~This Intercept Exemption Directive will enable the IESO to fulfil its commitments under the OFHP Act as the IESO will have to finance for a short or medium term period the funding shortfalls in the implementation of the ~~Fair Hydro Plan~~OFHP Act, as well as the continued implementation of the market support function for the IESO through the $475 million facility [to be amended from the current $975 million facility].

- ~~Under T~~the OFA Lending Policy provides the following requirement for unsecured loans to public bodies under CIPA~~, the following is provided for~~:

  ~~"~~Except where otherwise directed by the Minister of Finance, Treasury Board or Cabinet, and prior to the OFA making any loan to a public body, the OFA will [e]nsure that it has an appropriate intercept in place for the loan.~~"~~

- The ~~intercept in the~~ OFA Lending Policy also includes the following requirements in relation to the intercept provision:

  The public body and its responsible ministry are to agree that the Minister of Finance is entitled to deduct from money appropriated by the Legislature for payment to the public body amounts equal to any amounts that the public body fails to pay to the OFA on account of indebtedness under its loan agreement with the OFA.

RATIONALE FOR EXEMPTION

- ~~An~~ Including an i~~I~~ntercept p~~P~~rovision in the ~~new OFHP Credit Facility~~ credit facilities agreement with the IESO would have no practical usefulness in the case of the IESO as it receives no operational funding from the Province of Ontario.

- While the IESO settlements system for the electricity sector may facilitate the flow of appropriations of the Ministry of Energy for energy-related programs such as the Ontario Rebate for Electricity Consumers (OREC), the Rural or Remote Rate Protection Program (RRRP), the Ontario Electricity Support Program (OESP) etc., these payments are for the benefit of various electricity consumers.

- Intercepting these program specific payments, under which the IESO may only be providing a conduit to local distribution companies under the IESO settlement system to provide benefits to ratepayers, in order to recover loan payments would not be in alignment of the intent of the OFA's Lending Policy.

MINISTER'S DIRECTIVE

- The Minister of Finance's Intercept Exemption Directive would authorize the OFA to exempt the two ~~new two revolving~~ credit facilities~~y~~~~ies~~ ~~agreement~~ with ~~to~~ the IESO [per the Minister's Directive signed on June 29, 2017] from inclusion of an intercept provision, as required by the OFA Lending Policy. ~~Intercept provision under the OFA Lending Policy.~~

Commented [LS4]: This is not a defined term.

Commented [LS5]: Is this even a possibility? I thought there were no funds to intercept.

Commented [SK86R5]: There are payments (appropriated to Energy from the legislature) made to the IESO to carry out price mitigation programs (eg. electricity support programs).

Just want to explain here the intent of the policy isn't to claw back/intercept payments specifically designed to assist electricity ratepayers for which the IESO is a conduit.

Commented [JK7R5]: To Lisa's question - I don't believe that is the intent of requiring an intercept provision.

- ~~[The Intercept Exemption Directive would also exempt any lending to the IESO from the OFA, previously authorized and/or subsequently amended, to be exempt from the Intercept Provision.]~~

Commented [SK88]: This is to ensure both the 2B and 475M credit facilities are covered.

Commented [LS9]: See earlier comment

Commented [SK810R9]: Bullet above modified to include both facilities.

Commented [JK11R9]: To proceed with the Intercept Exemption Directive for the two facilities only.

FISCAL IMPACT

- There is no expected incremental fiscal impact for the Province from providing an exemption from the intercept provision requirement of the OFA Lending Policy.
  - [The IESO is an entity consolidated to the Province and if there were any amounts to intercept, there would be no incremental fiscal impact of ~~not~~ having ~~an~~the ~~i~~Intercept Exemption ~~p~~Provision.]

Commented [RK12]: What about saying that as IESO is a consolidated entity, and if there were any amounts to intercept, there would be no incremental fiscal impact of not having an intercept provision?

BACKGROUND

The IESO

- The IESO is a not-for-profit corporate entity established in 1998 by the *Electricity Act, 1998*. It is governed by an independent Board of Directors and its Chair and Directors are appointed by the Province.
- The IESO has full statute-based authority for establishing, monitoring and enforcing reliability standards in the province. All the companies that make up the power system in Ontario must meet the IESO's standards.
- Its fees and licences to operate are set by the Ontario Energy Board and it operates independently of all other participants in the electricity market.
-
- The IESO is a public body for the purposes of CIPA.

Electricity Finance Branch / Corporate and Electricity Finance Division
Ontario Financing Authority
August 17, 2017

From: John Kim
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 12:09:21 PM
Attachments: 01 - IESO-OFA - FHP LoC - Intercept Directive v5_Markup.docx
DIRECTIVE Aug 16 V2.docx
DIRECTIVE Aug 16 (Received Aug 17).docx
RE DIRECTIVE Aug 16.docx.msg

Sure, here you go.

Last two are new comments received today.

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

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From: Anna Strathy
Sent: August 17, 2017 11:50 AM
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Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

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Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

OFA -- IESO ~~FAIR HYDRO PLAN~~ CREDIT FACILITIES~~Y~~
MINISTER OF FINANCE DIRECTIVE TO EXEMPT THE INTERCEPT PROVISION
("INTERCEPT EXEMPTION DIRECTIVE")
REQUIRED UNDER THE OFA'S LENDING POLICY

The Independent Electricity System Operator (IESO) requested a revolving credit facility ("the credit facility") in an amount of up to $2 billion from the Ontario Financing Authority ("OFA") to support its role in the implementation and participation under the *Ontario Fair Hydro Plan Act, 2017* ("OFHP Act"). In the same request, the IESO had requested a reduction to its existing credit facility from the current $975 million to $475 million.

On June 29, 2017, the OFA received a Lending Directive from the Minister of Finance to accommodate the IESO's request.

Per the requirements of the OFA's Lending Policy, the OFA is returning to request a Minister's direction to exempt from the Intercept Provision both the new $2 billion credit facility to support the IESO's role in the Fair Hydro Plan~~current~~ and the reduced $475 million ~~proposed IESO~~ credit facility~~ies from the Intercept Provision~~.

- Note: The Intercept Provision under the OFA's Lending Policy for unsecured lending to a public body requires that, unless exempted by the Minister of Finance [or Treasury Board or Cabinet], the OFA ~~to~~ put in place a provision whereby the OFA is entitled to deduct amounts equal to any amounts the public body fails to pay to the OFA under the loan, from money appropriated by the Legislature for payment to the public body.

RECOMMENDATION

- OFA staff recommend the Minister sign the Intercept Exemption Directive allowing the OFA to provide these credit facilities ~~exempt~~to the IESO without ~~from the~~an Intercept provision under~~of~~ the OFA Lending Policy.

CONSIDERATIONS

- This will enable the IESO fulfil commitments under the OFHP Act as the IESO will have to finance for a short ~~to~~or medium term period the funding shortfalls in the implementation of the Fair Hydro Plan.

~~Note: The Intercept Provision under the OFA's Lending Policy for unsecured lending to a public body requires that, unless exempted by the Minister of Finance [or Treasury Board or Cabinet], the OFA to put in place a provision whereby the OFA is entitled to deduct amounts equal to any amounts the public body fails to pay to the OFA under the loan from money appropriated by the Legislature for payment to the public body.~~

- ~~The~~An Intercept Provision would ha~~s~~ve no practical usefulness in the case of the IESO as it receives no operational funding from the Province. While the IESO settlements system for the electricity sector may facilitate the flow of ~~A~~appropriations of the Ministry of Energy ~~for payment to the IESO are for settlement of payments~~ for energy-related programs such as the Ontario Rebate for Electricity Consumers (OREC), the Rural or Remote Rate Protection Program (RRRP), the Ontario Electricity Support Program (OESP) etc., these payments are for the benefit of various electricity consumers. Intercepting these program specific payments, ~~merely~~

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~~facilitated by~~under which the IESO~~.~~ may only be providing a conduit to local distribution companies under the IESO settlement system to provide benefits to ratepayers, in order to recover loan payments would not be in alignment of the intent of the OFA's Lending Policy.

MINISTER'S DIRECTIVE

- The Minister of Finance's Intercept Exemption Directive would authorize the OFA to exempt the two revolving credit facilities to the IESO [per the Minister's Directive signed on June 29, 2017] from the Intercept ~~P~~provision ~~outlined in~~under the OFA Lending Policy ~~from the revolving credit facility to the IESO [per Directive signed on June 29, 2017]~~.

- [The Intercept Exemption Directive would also exempt any lending to the IESO from the OFA, previously authorized and/or subsequently amended, to be exempt from the Intercept Provision.]

FISCAL IMPACT

- There is no expected~~would be a relatively small but positive~~ incremental fiscal impact for the Province from providing an exemption from the intercept provision~~, as a result of the credit facility and the Intercept Exemption Directive is not anticipated to change this.~~
  - ~~The Province receives a small fiscal benefit by adding 25 basis points (i.e., 0.25%) to the Province's cost of funds provided to the IESO under the facility, which should more than offset any administrative cost impact on the OFA and Province.~~
  - ~~The actual amount is expected to be small, as the IESO is expected to make draws for short periods to bridge brief timing differences in cash flows.~~

BACKGROUND

The IESO

- The IESO is a not-for-profit corporate entity established in 1998 by the *Electricity Act, 1998*. It is governed by an independent Board of Directors and its Chair and Directors are appointed by the Province.
- The IESO has full statute-based authority for establishing, monitoring and enforcing reliability standards in the province. All the companies that make up the power system in Ontario must meet the IESO's standards.
- Its fees and licences to operate are set by the Ontario Energy Board and it operates independently of all other participants in the electricity market.

The OFA Lending Policy

- [Add some background bullets.]
- The OFA Lending Policy provides for….
-

Commented [SK81]: This is to ensure both the 2B and 475M credit facilities are covered.

Commented [RK2]: Agreed?

Commented [RK3]: What about saying that as IESO is a consolidated entity, and if there were any amounts to intercept, there would be no incremental fiscal impact of not having an intercept provision?

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Electricity Finance Branch / Corporate and Electricity Finance Division
Ontario Financing Authority
August 17, 2017

COMMERCIALLY SENSITIVE AND CONFIDENTIAL ADVICE TO MINISTER

DIRECTIVE

MINISTER OF FINANCE

LOANS TO THE INDEPENDENT ELECTRICITY SYSTEM OPERATOR

To: Ontario Financing Authority ("OFA")

Whereas:

Under the *Capital Investment Plan Act, 1993* ("CIPA"), the OFA provides financing to public bodies as directed by the Minister of Finance ("Minister").

The Independent Electricity System Operator ("IESO") is a public body for the purposes of CIPA.

Pursuant to a directive from the Minister dated June 29, 2017, the OFA was directed to provide a revolving credit facility to the IESO for the purposes of providing short to medium term financing related to the IESO's role in the implementation of the *Ontario Fair Hydro Plan Act, 2017* (the "OFHP Credit Facility").

Pursuant to the OFA Lending Policy, the OFA is required to include an intercept provision in respect of loans made by the OFA to public bodies on an unsecured basis, unless otherwise directed by the Minister, Treasury Board or Cabinet. The intercept provision would entitle the OFA to deduct money appropriated by the Legislature for payment to the IESO, if not specifically exempted by a direction from the Minister of Finance.

[As the IESO receives no funds~~ing~~ in the form of grants or transfer payments from the ~~Province of Ontario~~Ministry of Energy pursuant to its annual appropriation, there is no funding to which the intercept provision applies.]

[ALTERNATE TO PARAGRAPH ABOVE:

The Intercept Provision has no practical usefulness in the case of the IESO as it receives no operational funding from the Province. Appropriations of the Ministry of Energy for payment to the IESO are for settlement of payments for energy programs such as the Ontario Rebate for Electricity Consumers (OREC), the Rural or Remote Rate Protection Program (RRRP), the Ontario Electricity Support Program (OESP) etc. Intercepting these program specific payments merely facilitated by the IESO, in order to recover loan payments would not be in alignment of the intent of the OFA's Lending Policy.]

Therefore:

The OFA is not required to include an intercept provision in its OFHP Credit Facility agreement with the IESO, nor in any other existing unsecured loan agreements with the IESO.

Commented [LS1]: CEFD to review/confirm.

Commented [SK82]: Two related arguments for the Directive.

Suggest picking one and ensuring the one chosen is then copied over to the Briefing Note to ensure consistency.

Dated , 2017

Charles Sousa

Minister of Finance

DIRECTIVE

MINISTER OF FINANCE

LOANS TO THE INDEPENDENT ELECTRICITY SYSTEM OPERATOR

To: Ontario Financing Authority ("OFA")

Whereas:

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Pursuant to the OFA Lending Policy, the OFA is required to include an intercept provision in respect of loans made by the OFA to public bodies on an unsecured basis, unless otherwise directed by the Minister, Treasury Board or Cabinet. The intercept provision applies to money appropriated by the Legislature from a public body.

As there is no money appropriated by the Legislature for the IESO, the intercept provision has no application for an OFA loan to the IESO.

Therefore:

The OFA is not required to include an intercept provision in its OFHP Credit Facility agreement with the IESO.

Dated , 2017

_____

Charles Sousa

Minister of Finance

From: Lisa Stein []
To: Malle Hanslep (MOF) [Malle.Hanslep@ontario.ca]; John Kim [John.Kim@ofina.on.ca]
CC: Kenneth Russell [Kenneth.Russell@ofina.on.ca]
Subject: RE: DIRECTIVE Aug 16.docx
Date: Thursday, August 17, 2017 10:38:45

Thank you Malle. I agree that it would be helpful to verify the source.

John – Can you please advise?

Thanks,

Lisa

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Thursday, August 17, 2017 10:36 AM
To: Lisa Stein <Lisa.Stein@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Kenneth Russell <Kenneth.Russell@ofina.on.ca>
Subject: RE: DIRECTIVE Aug 16.docx

Thanks Lisa.

I think that in the new 4th paragraph, it should be “for”, not “from”.

Maybe it should say something like: Currently there is no money appropriated by the Legislature OR the Ministry of Energy has advised that there is no money appropriated and not expected to be… I am just trying to get at the source of certainty of that information which may be better explained in the accompanying briefing note.

Thanks.

Malle

From: Lisa Stein [mailto:Lisa.Stein@ofina.on.ca]
Sent: August 17, 2017 10:07 AM
To: Kim, John (OFA); Hanslep, Malle (MOF)
Cc: Russell, Kenneth (OFA)
Subject: DIRECTIVE Aug 16.docx

Please see attached revised draft directive for review, focusing only on current FHP credit facility.

Lisa

Lisa N. Stein

Legal Counsel

Ontario Financing Authority

416-325-2320

****

This message, including any attachments, is intended only for the use of the individual(s) to which it is addressed and contains information that is privileged/confidential. Any other distribution, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify the sender immediately by reply e-mail and permanently delete this message, including any attachments, without reading it or making a copy. Thank you.

****

From: John Kim
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 12:06:24 PM

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

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Sorry I couldn't attend the Management meeting, I wanted to provide my comments and edits before I left, pls let me know if you have any questions. I would also hope that OPG will be able to provide a draft of the guarantee itself that can also be attached.

Finally, you should also reserve a space in the submission for comments from MOF Legal and Stephen Ashbourne.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, August 16, 2017 1:49 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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Good afternoon,

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Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From:	Anna Strathy
To:	Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc:	Ken Kandeepan
Subject:	RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Thursday, August 17, 2017 11:50:40 AM

Thanks very much, Ron.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:50 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna,

Some suggestions, as discussed. It might be better to reframe this under a request for OIC approval.

I will commit that CEFD staff are available to provide further input into such a submission -- (thanks John, et al!).

Ron

From: Anna Strathy
Sent: August 17, 2017 10:25 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

I have incorporated Ken's comments into the correct template. If you haven't yet started editing the document sent yesterday, please use the attached. I've added some additional background detail that will require review.

If I could please ask for any comments asap that would be much appreciated. I'll be sending to OPCD, Energy and MOF early this afternoon for comment.

From: Ken Kandeepan
Sent: Wednesday, August 16, 2017 2:45 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine

<James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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Cc:	Ken Kandeepan
Subject:	RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Thursday, August 17, 2017 10:25:43 AM
Attachments:	TB20 Submission_Provincial Guarantee_v1 (08172017).doc

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee to the OPG Financing Entity and its prospective debt holders, that under certain circumstances, the Province would assume the debt obligations of the Financing Entity. The provincial guarantee protects investors from an adverse change in law or inability to fund in capital markets.

This submission is to request that Treasury Board:

(a) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix;

(b) Note the Minister of Finance will sign a Section 28, approving a contingent liability equal to the esti

3. SUMMARY OF FINANCIAL IMPLICATIONS

The following two tables provide a summary of the funding request for the Ministry, by standard account and by program area. Detailed financial information is provided in the Appendices.

$M (except FTEs)

Ministry Summary					
PSAB *	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**Total**
Salaries/Wages					
Employee Benefits					
Transportation & communication					
Services					
Supplies & Equipment					
Total					
Offset (enter as negative number)					
Total net of Offset					
Classified FTEs at March 31					
Unclassified FTEs at March 31					
* If cash implications differ from PSAB, please provide cash numbers in a separate table.					

$Million

Financial Implications by Program Area	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**Total**
Division/Branch					
Division/Branch					
Total					

4. BACKGROUND:

On March 2, 2017, the government announced Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. It is built around the principle that costs incurred to move to a clean, reliable system creates benefits across generations, and costs that should be spread more fairly.

To this end, immediate rate relief is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years.

The IESO will create a regulatory asset approximately equal to the difference between collections from ratepayers and payment obligations to generators and conservation. Under the OFHP a Financing Entity will finance the shortfall in revenues not received from the ratepayers.

The *Ontario Fair Hydro Plan Act, 2017,* (the Act) which came into effect on June 1, 2017, enables the implementation of the OFHP. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future.

To purchase the regulatory asset from IESO, the Financing Entity must borrow from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against risk, the debt would not be financeable. OPG is therefore requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding

payments to service providers.

The guarantee would continue until all obligations of the Financing Entity are fully discharged.

The Ministry of Energy will be reporting back to TB/MBC on September

5. ADMINISTRATIVE IMPACTS:

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be materially greater than it otherwise would be.

If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated $24B to $26B. In the event the guarantee is triggered the Province's net debt will increase by an amount equal to the contingent liability at that point in time.

Likewise, the Province's interest payments will also increase by amount equal to the weighted average cost of the debt it has assumed under the guarantee. While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense will increase anywhere between $0.8B and $1.3B per annum.

It is important to note that if the guarantee is triggered for the Province to pay down the debt it assumes as well as minimize the fiscal impact from the associated IOD expense, the other provisions of the Fair Hydro Plan including the Clean Energy Adjustment need to continue. If not, the incremental IOD expense impacts the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. OPERATIONAL REQUIREMENTS:

8. COMMUNICATION PLAN

8. BUSINESS CASE:

11. REVENUE IMPACT:

12. PERFORMANCE MEASURES:

14. IMPLEMENTATION PLAN:

15. RECOMMENDATION

a) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix;

b) Note the Minister of Finance will sign a Section 28, approving a contingent liability.

From:	John Kim
To:	Ronald Kwan
Cc:	Shajee Kathirgamanathan; Bruno Amara
Subject:	RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Wednesday, August 16, 2017 10:31:14 PM
Attachments:	TBMBC Submission Provincial Guarantee (OFA) 08162017 - EFBv1.doc

Hi Ron,

Pls. see attached our comments.

\\ofina.on.ca\ofadfs\Users\CEF\Hydro 2017\Cabinet Submissions\TB MBC - Provincial Guarantee

John

From: Ronald Kwan
Sent: August-16-17 2:00 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Fwd: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

Comments please.

Thanks,
Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 16, 2017 at 1:48:47 PM EDT
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>, Carlos Yep <Carlos.Yep@ofina.on.ca>, James Devine <James.Devine@ofina.on.ca>, John Psinas <John.Psinas@ofina.on.ca>, John Kim <John.Kim@ofina.on.ca>
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TREASURY BOARD / MANAGEMENT BOARD OF CABINET
REQUEST ASSESSMENT NOTE

Ministry:	Energy
Meeting Date:	September 12, 2017 (TBC)
Agenda Class:	
Last reviewed by: NA	**Tracking to:** Cabinet (September 13, 2017)

[

SUBMISSION TITLE:	Ontario Fair Hydro Plan Update and Provincial Guarantee

I. DECISION BEFORE THE BOARD

- [Energy item…Receive a report back…]
- Whether the Government of Ontario should provide a guarantee to the OPG Financing Entity and its prospective debt holders~~,~~ ~~providing~~ that under certain circumstances, the Province would assume the debt ~~funding~~ obligations of the Financing Entity.

Commented [JK1]: TBD - how Energy structures their submission.

Commented [JK2]: May want to make consistent throughout, i.e. debt or funding.

II. RECOMMENDATIONS:

• [Energy item… Receive a report back…]	*[Receive]*
• Provide a guarantee to the OPG Financing Entity under the terms set out in Appendix C	*Approve*

III. FINANCIAL SUMMARY

$ Millions	**2013-14**	**2014-15**	**2015-16**
Initiative cost requested	0.0	0.0	0.0
Initiative cost recommended	0.0	0.0	0.0
Recommended program base	0.0	0.0	0.0
Offset Recommended (Specify Ministry/Program)	0.0	0.0	0.0
Total Fiscal Impact	0.0	0.0	0.0

IV. KEY COMMENTS AND CONSIDERATIONS

[Energy item… report back…]

- To purchase the regulatory asset from IESO, the OPG Financing Entity ("Financing Entity") must borrow from the capital markets; however, OPG's financial advisors ~~investors~~ have indicated that without adequate protection against risk, the debt would not be financeable or be reflected in higher financing costs, to be passed on to the ratepayers.
- OPG is requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

- Certain events that ~~would~~ negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity;
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

- The guarantee would continue until all obligations of the Financing Entity are fully discharged.

Risks:

- If the guarantee is not approved, the Financing Entity would either be ~~is unlikely to be~~ unable ~~able~~ to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be ~~materially~~ greater than it otherwise would be~~.~~

- ~~—~~If the guarantee is approved, the Government of Ontario takes on a contingent liability. ~~.~~The amount of the liability will increase over the duration of the Fair Hydro Plan and ~~, equal to the~~ peak at ~~accumulated debt,~~an estimated~~.~~ ~~at~~ about $24B to $26B in Energy's Cabinet Submission in March 2017. In the event the guarantee is triggered the Province's net debt will increase by an amount equal to the contingent liability at that point in time. ~~—, Likewise, t~~The Province's interest payments will also increase by amount equal to the weighted average cost of the debt it has assumed under the ~~.~~guarantee. While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense the worst case scenario would be the Province assuming the debt at its peak. ~~If so, IOD expense will increase anywhere between $0.8B and $1.3B per annum.~~ ~~and associated interest payments, estimated at [x].. Should the provincial guarantee be triggered by one of the events set out above, the fiscal impact to the Province would be [xxx].~~
- It is important to note that if the guarantee is triggered for the Province to pay down the debt it assumes as well as minimize the fiscal impact from the associated IOD expense, the other provisions of the Fair Hydro Plan including the Clean Energy Adjustment need to continue. If not, the incremental IOD expense impacts the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [KK3]: Carlos, Jim to review this sentence for accuracy.

Commented [JK4R3]: Suggest delete "materially".

Commented [KK5]: Ron's sensitivity analysis presents a peak that ranges between $24 to $26 billion. You might want to therefore, provide a range as opposed to a single number.

Commented [JK6]: Suggest delete - Rather avoid mentioning these estimates. If to leave it in, suggest the qualifier.

Commented [KK7]: Again taken from the sensitivity analysis provided by Ron.

Commented [JK8]: Suggest delete – the Province's interest cot would not likely be at the conservative rate estimate used by Energy at the time of their CabSub.

Commented [SK89]: Not sure what this means.

If the guarantee is triggered, does the Province just assume the debt rather than paying it down?

Commented [JK10R9]: Agreed that this bullet could be clarified

Name of analyst:		**Phone number:**	
Date:		**Log number:**	
Branch / Division:			

APPENDIX A: PROPOSED MINUTE

i) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix C.

ii) Note the Minister of Finance will sign a Section 28, approving a contingent liability [xxx]

DRAFT

FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE					TABLE B1
		Fiscal Plan Basis			*Appropriations Basis*
$ Millions		**2013-14**	**2014-15**	**2015-16**	**2013-14**
Initiative cost recommended		0.0000	0.0000	0.0000	
Expense changes:					
Operating item	Oper	0.0000	0.0000	0.0000	0.0000
Capital item	Cap	0.0000	0.0000	0.0000	00000
Revenue changes:					
Revenue increase/offset		0.0000	0.0000	0.0000	
Revenue decrease		0.0000	0.0000	0.0000	
Total Fiscal Impact (draw from c-funds)		**0.0000**	**0.0000**	**0.0000**	**0.0000**

Commented [KK11]: Assuming Ron and staff are ok, you may want to use the numbers in the sensitivity analysis and provide a range in each instance.

Commented [SK812R11]: Would numbers be needed if the contingent liability is not yet exercised (eg. the sensitivity numbers above were on a worst case situation). I assume this table is for actual allocations for potential initiatives.

Unclear if other contingent liability requests have Fiscal Plan numbers assigned to them.

Commented [JK13R11]: Agree with Shajee.

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APPENDIX C: SCHEDULES

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.*

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; (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; (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; (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 judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and

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	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.]**
Guarantee:	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

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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

DRAFT

From:	Anna Strathy
To:	Ken Kandeepan; Ronald Kwan
Cc:	Carlos Yep; James Devine; John Psinas; John Kim
Subject:	RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Wednesday, August 16, 2017 2:57:53 PM

Thanks very much for these comments Ken.

Ron, would be very grateful if your staff could add the ranges from your sensitivity analysis to the financial tables.

And, Gadi has asked that we send this to Cindy for comment tomorrow, so if I could please ask for **comments by 10:00am tomorrow morning**, instead of noon, that would be much appreciated.

Anna

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Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From:	Ken Kandeepan
To:	Anna Strathy
Cc:	Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Subject:	RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Wednesday, August 16, 2017 2:45:28 PM
Attachments:	TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna

Sorry I couldn't attend the Management meeting, I wanted to provide my comments and edits before I left, pls let me know if you have any questions. I would also hope that OPG will be able to provide a draft of the guarantee itself that can also be attached.

Finally, you should also reserve a space in the submission for comments from MOF Legal and Stephen Ashbourne.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, August 16, 2017 1:49 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Good afternoon,

Please find attached, a draft TB Submission on the Provincial Guarantee, for your review and comment. The Ministry of Energy is expected to bring this submission forward, with a status update on the FHP and input from the OFA. While the TB meeting date is still TBD, Gadi asked that we draft of input to the submission before the end of the week (when Gadi, Ron, and Ken leave on vacation).

Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.

Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority

416.325.8032 | anna.strathy@ofina.on.ca

TREASURY BOARD / MANAGEMENT BOARD OF CABINET
REQUEST ASSESSMENT NOTE

Ministry:	Energy
Meeting Date:	September 12, 2017 (TBC)
Agenda Class:	
Last reviewed by: NA	**Tracking to:** Cabinet (September 13, 2017)

[

SUBMISSION TITLE:	Ontario Fair Hydro Plan Update and Provincial Guarantee

I. DECISION BEFORE THE BOARD

- [Energy item…Receive a report back…]
- Whether the Government of Ontario should provide a guarantee to the OPG Financing Entity and its prospective debt holders, ~~providing~~ that under certain circumstances, the Province would assume the debt ~~funding~~ obligations of the Financing Entity.

II. RECOMMENDATIONS:

• [Energy item… Receive a report back…]	
• Provide a guarantee to the OPG Financing Entity under the terms set out in Appendix C	*Approve*

III. FINANCIAL SUMMARY

$ Millions	**2013-14**	**2014-15**	**2015-16**
Initiative cost requested	0.0	0.0	0.0
Initiative cost recommended	0.0	0.0	0.0
Recommended program base	0.0	0.0	0.0
Offset Recommended (Specify Ministry/Program)	0.0	0.0	0.0
Total Fiscal Impact	0.0	0.0	0.0

IV. KEY COMMENTS AND CONSIDERATIONS

[Energy item… report back…]

- To purchase the regulatory asset from IESO, the OPG Financing Entity must borrow from the capital markets; however, OPG's financial advisors ~~investors~~ have indicated that without adequate protection against risk, the debt would not be financeable.
- OPG is requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity;
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

- The guarantee would continue until all obligations of the Financing Entity are fully discharged.

Risks:

- If the guarantee is not approved, the Financing Entity would either be ~~is unlikely to be~~ unable ~~able~~ to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be materially greater than it otherwise would be .

- ~~If~~ If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and ~~, equal to the~~ peak at ~~accumulated debt,~~an estimated ~~at~~ $24B to $26B. In the event the guarantee is triggered the Province's net debt will increase by an amount equal to the contingent liability at that point in time. ~~,~~Likewise, the Province's interest payments will also increase by amount equal to the weighted average cost of the debt it has assumed under the ~~-~~guarantee. While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense will increase anywhere between $0.8B and $1.3B per annum. ~~and associated interest payments, estimated at [x].. Should the provincial guarantee be triggered by one of the events set out above, the fiscal impact to the Province would be [xxx].~~
- It is important to note that if the guarantee is triggered for the Province to pay down the debt it assumes as well as minimize the fiscal impact from the associated IOD expense, the other provisions of the Fair Hydro Plan including the Clean Energy Adjustment need to continue. If not, the incremental IOD expense impacts the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

Commented [KK1]: Carlos, Jim to review this sentence for accuracy.

Commented [KK2]: Ron's sensitivity analysis presents a peak that ranges between $24 to $26 billion. You might want to therefore, provide a range as opposed to a single number.

Commented [KK3]: Again taken from the sensitivity analysis provided by Ron.

Formatted: Bulleted + Level: 1 + Aligned at: 0" + Indent at: 0.25"

Name of analyst:		**Phone number:**	
Date:		**Log number:**	
Branch / Division:			

APPENDIX A: PROPOSED MINUTE

i) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix C.

ii) Note the Minister of Finance will sign a Section 28, approving a contingent liability [xxx]

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FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE					TABLE B1
		Fiscal Plan Basis			*Appropriations Basis*
$ Millions		**2013-14**	**2014-15**	**2015-16**	**2013-14**
Initiative cost recommended		0.0000	0.0000	0.0000	
Expense changes:					
Operating item	Oper	0.0000	0.0000	0.0000	0.0000
Capital item	Cap	0.0000	0.0000	0.0000	00000
Revenue changes:					
Revenue increase/offset		0.0000	0.0000	0.0000	
Revenue decrease		0.0000	0.0000	0.0000	
Total Fiscal Impact (draw from c-funds)		**0.0000**	**0.0000**	**0.0000**	**0.0000**

Commented [KK4]: Assuming Ron and staff are ok, you may want to use the numbers in the sensitivity analysis and provide a range in each instance.

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APPENDIX C: SCHEDULES

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.*

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; (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; (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; (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 judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and

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	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.]**
Guarantee:	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

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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

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From: John Kim
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 7:46:48 PM

Great, will do.

From: Ronald Kwan
Sent: August-17-17 7:44 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

Please share. Note that I have not reviewed this draft.

Thanks,
Ron

On Aug 17, 2017, at 7:25 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> Pls. see attached.
>
> I can share with Legals folks – qualifying as pending finalization/review.
>
> John
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** August-17-17 12:33 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Subject:** Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
>
> Hi John,
>
> See the attached on the BN.
>
> I have not yet reviewed the draft directive.
>
> Ron
>
> ---
>
> **From:** John Kim
> **Sent:** August 17, 2017 12:09 PM
> **To:** Ronald Kwan

Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, here you go.

Last two are new comments received today.

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:02 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks John.

Ron

From: John Kim
Sent: August 17, 2017 12:01 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, might have to do with CMD and FTD involvement on the guarantee. I like everyone's involvement on such a difficult and challenging file/request!

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:59 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I hope that works for you. Not sure why Anna would have to do this, as she is not really familiar with the file, so she'll need a lot of assistance.

Ron

From: Anna Strathy
Sent: August 17, 2017 11:50 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks very much, Ron.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:50 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna,

Some suggestions, as discussed. It might be better to reframe this under a request for OIC approval.

I will commit that CEFD staff are available to provide further input into such a submission -- (thanks John, et al!).

Ron

From: Anna Strathy
Sent: August 17, 2017 10:25 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

I have incorporated Ken's comments into the correct template. If you haven't yet started editing the document sent yesterday, please use the attached. I've added some additional background detail that will require review.

If I could please ask for any comments asap that would be much appreciated. I'll be sending to OPCD, Energy and MOF early this afternoon for comment.

From: Ken Kandeepan
Sent: Wednesday, August 16, 2017 2:45 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna

Sorry I couldn't attend the Management meeting, I wanted to provide my comments and edits before I left, pls let me know if you have any questions. I would also hope that OPG will be able to provide a draft of the guarantee itself that can also be attached.

Finally, you should also reserve a space in the submission for comments from MOF Legal and Stephen Ashbourne.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, August 16, 2017 1:49 PM

To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Good afternoon,

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Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.

Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

<01 - IESO-OFA - FHP LoC - Intercept Directive v9.docx>

From:	John Kim
To:	Ken Kandeepan; Anna Strathy; Ronald Kwan
Subject:	RE: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date:	Wednesday, September 13, 2017 8:25:59 AM

Hi Anna, Ken,

We work with James quite a bit. I can facilitate the outreach for the draft.

John

From: Ken Kandeepan
Sent: Wednesday, September 13, 2017 8:24 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Sorry Anna, neither am I however, feel free to request the draft note, the protocol I believe is that you have to go through Anthony.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, September 13, 2017 8:20 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

I understand from Anthony that the TBS analyst is James Strang. I'm not familiar with James.

From: Anna Strathy
Sent: Tuesday, September 12, 2017 7:35 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Thank you both for weighing in on this, and Ron, for flagging that potential question from TBS. We'll be ready with an explanation if we do get pushed for an offset. I've asked CQSD to let me know who the TBS analyst is – they're likely more familiar with contingent liabilities than CQSD. Also, Ron, I haven't seen an assessment note yet, but I expect that TBS has the v7. draft circulated yesterday. I'll ask Anthony to confirm tomorrow.

From: Ken Kandeepan

Sent: Tuesday, September 12, 2017 1:19 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Well if TBS does want an offset we can provide the relevant explanation at that time. In any event potential impacts will be on the Treasury Program, so not sure what CQSD's concerns are.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, September 12, 2017 1:14 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Ken,

Agreed that the submission covers those points. The issue is if TB or TBS would want to identify a ministry as responsible for an offset, in that eventuality. As noted, given the magnitude and nature of the potential triggers, I would not be expecting TB to require an offset (which I read to be CQSD's implied concern on which ministry or ministries would be identified as needing to provide an offset in that eventuality).

Ron

From: Ken Kandeepan
Sent: September 12, 2017 1:06 PM
To: Ronald Kwan; Anna Strathy
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Ron

When you refer to offsets I guess you mean an offset to any fiscal impact that may arise from the crystallization of a liability. Note that the mere crystallization of a liability has no fiscal impact (only impacts net debt) unless its accompanied by an increase in expenses which is usually in the form of an increase to the Province's IOD.

The submission currently addresses this issue by pointing out that the invocation of the guarantee, or as it is now called, the assumption, will impact both net debt and IOD. The submission also goes

on to indicate that unless the CEA revenue stream diverts to the Province from the Financing Entity, upon assumption, there will be a fiscal impact from the incremental IOD.

The submission goes on to state that the net effect of the assumption sans the CEA (if that is will of the Government in power at that time) will be the taxpayer taking on a debt burden incurred for the benefit of the ratepayer, with very limited recourse for repayment.

Hope that satisfies your concern, I am meeting with Cindy next week Monday to ensure that both OPCD and the OFA are on the same page re the impact of the assumption.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, September 12, 2017 12:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Just a comment.

While I would not expect it in this case, given the size and what the trigger would be, TB sometimes requires submitting ministries to acknowledge finding offsets, should contingent liabilities crystallize.

So, not held by a particular ministry for accounting, but sometimes a Minuted point and ministry responsibility. As stated, though, I would not expect it in this case. Might be good to confirm with the relevant TBS analyst. (Who would that be, and has TBS started drafting an assessment note?)

Ron

On Sep 12, 2017, at 12:34 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Anthony, will make those three updates you've requested. With respect to your question:
>
> *Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.*
>
> Thank you, Ken, for the wording.
>
> ---

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, September 12, 2017 12:31 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA)

<Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; He, Gavin (OFA) <Gavin.He@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
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From: Ken Kandeepan
To: Anna Strathy; Ronald Kwan
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Wednesday, September 13, 2017 8:23:44 AM

Sorry Anna, neither am I however, feel free to request the draft note, the protocol I believe is that you have to go through Anthony.

Thanks

Ken k

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To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> Thank you, Ken, for the wording.
>
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> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
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Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
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Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
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> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
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From: Anna Strathy
To: Ken Kandeepan; Ronald Kwan
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Tuesday, September 12, 2017 7:35:10 PM

Thank you both for weighing in on this, and Ron, for flagging that potential question from TBS. We'll be ready with an explanation if we do get pushed for an offset. I've asked CQSD to let me know who the TBS analyst is – they're likely more familiar with contingent liabilities than CQSD. Also, Ron, I haven't seen an assessment note yet, but I expect that TBS has the v7. draft circulated yesterday. I'll ask Anthony to confirm tomorrow.

From: Ken Kandeepan
Sent: Tuesday, September 12, 2017 1:19 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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The submission goes on to state that the net effect of the assumption sans the CEA (if that is will of the Government in power at that time) will be the taxpayer taking on a debt burden incurred for the benefit of the ratepayer, with very limited recourse for repayment.

Hope that satisfies your concern, I am meeting with Cindy next week Monday to ensure that both OPCD and the OFA are on the same page re the impact of the assumption.

Thanks

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To: Anna Strathy <Anna.Strathy@ofina.on.ca>
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Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Just a comment.

While I would not expect it in this case, given the size and what the trigger would be, TB sometimes requires submitting ministries to acknowledge finding offsets, should contingent liabilities crystallize.

So, not held by a particular ministry for accounting, but sometimes a Minuted point and ministry responsibility. As stated, though, I would not expect it in this case. Might be good to confirm with the relevant TBS analyst. (Who would that be, and has TBS started drafting an assessment note?)

Ron

On Sep 12, 2017, at 12:34 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

Hi Anthony, will make those three updates you've requested. With respect to your question:

Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.

Thank you, Ken, for the wording.

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Sent: Tuesday, September 12, 2017 12:31 PM
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To: Ronald Kwan; Anna Strathy
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Tuesday, September 12, 2017 1:06:18 PM

Hi Ron

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From:	Reiss, Anthony (MOF)
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From:	Anna Strathy
To:	John Kim; Ken Kandeepan; Ronald Kwan
Subject:	RE: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date:	Wednesday, September 13, 2017 8:27:35 AM

Thanks John. I'll check with Anthony first and see if he can request the draft.

From: John Kim
Sent: Wednesday, September 13, 2017 8:26 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna, Ken,

We work with James quite a bit. I can facilitate the outreach for the draft.

John

From: Ken Kandeepan
Sent: Wednesday, September 13, 2017 8:24 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Sorry Anna, neither am I however, feel free to request the draft note, the protocol I believe is that you have to go through Anthony.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, September 13, 2017 8:20 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

I understand from Anthony that the TBS analyst is James Strang. I'm not familiar with James.

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Sent: Tuesday, September 12, 2017 7:35 PM
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Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Thank you both for weighing in on this, and Ron, for flagging that potential question from TBS. We'll be ready with an explanation if we do get pushed for an offset. I've asked CQSD to let me know who the TBS analyst is – they're likely more familiar with contingent liabilities than CQSD. Also, Ron, I haven't seen an assessment note yet, but I expect that TBS has the v7. draft circulated yesterday. I'll ask Anthony to confirm tomorrow.

From: Ken Kandeepan
Sent: Tuesday, September 12, 2017 1:19 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Well if TBS does want an offset we can provide the relevant explanation at that time. In any event potential impacts will be on the Treasury Program, so not sure what CQSD's concerns are.

Thanks

Ken k

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To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Ken,

Agreed that the submission covers those points. The issue is if TB or TBS would want to identify a ministry as responsible for an offset, in that eventuality. As noted, given the magnitude and nature of the potential triggers, I would not be expecting TB to require an offset (which I read to be CQSD's implied concern on which ministry or ministries would be identified as needing to provide an offset in that eventuality).

Ron

From: Ken Kandeepan
Sent: September 12, 2017 1:06 PM
To: Ronald Kwan; Anna Strathy
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Ron

When you refer to offsets I guess you mean an offset to any fiscal impact that may arise from the crystallization of a liability. Note that the mere crystallization of a liability has no fiscal impact (only impacts net debt) unless its accompanied by an increase in expenses which is usually in the form of an increase to the Province's IOD.

The submission currently addresses this issue by pointing out that the invocation of the guarantee, or as it is now called, the assumption, will impact both net debt and IOD. The submission also goes on to indicate that unless the CEA revenue stream diverts to the Province from the Financing Entity, upon assumption, there will be a fiscal impact from the incremental IOD.

The submission goes on to state that the net effect of the assumption sans the CEA (if that is will of the Government in power at that time) will be the taxpayer taking on a debt burden incurred for the benefit of the ratepayer, with very limited recourse for repayment.

Hope that satisfies your concern, I am meeting with Cindy next week Monday to ensure that both OPCD and the OFA are on the same page re the impact of the assumption.

Thanks

Ken k

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Hi Anna,

Just a comment.

While I would not expect it in this case, given the size and what the trigger would be, TB sometimes requires submitting ministries to acknowledge finding offsets, should contingent liabilities crystallize.

So, not held by a particular ministry for accounting, but sometimes a Minuted point and ministry responsibility. As stated, though, I would not expect it in this case. Might be good to confirm with the relevant TBS analyst. (Who would that be, and has TBS started drafting an assessment note?)

Ron

On Sep 12, 2017, at 12:34 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Anthony, will make those three updates you've requested. With respect to your question:

Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.

Thank you, Ken, for the wording.

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Sent: Tuesday, September 12, 2017 12:31 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; He, Gavin (OFA) <Gavin.He@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

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I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
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Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

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weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
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416.325.8032 | anna.strathy@ofina.on.ca

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From:	Tekle, Jonathan (MOF)
To:	Anthony Reiss (MGS); Anna Strathy; Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Keley Katona (ENERGY); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Usman Zahid; Vivienne Skoberne (MOHLTC)
Subject:	RE: TB/MBC Submission on Provincial Guarantee MOE role and sign-off
Date:	Wednesday, September 06, 2017 12:45:47 PM

Just a clarification – DM\MO briefing is scheduled for next Tuesday. Minister's briefing is TBC.

From: Reiss, Anthony (MOF)
Sent: September 6, 2017 12:42 PM
To: Strathy, Anna (OFA); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
Subject: TB/MBC Submission on Provincial Guarantee MOE role and sign-off

Hi Anna,

I have a few questions as well that could impact the answers you are asking .

Point 1. The submission as its stands is a request under an OIC under FHPA that resides under MOE. The request is for both Ministers points (a) and (b), the Minister from MOE would need to sign the submission, as far as I can see.

I have had no contact with MOE on this submission. There were discussions on how this submission would be brought forward with MOE earlier, the only outcome I am aware was that this would be an MOF led submission. The area within MOF that worked with MOE on this, should provide additional information in regards to point 1 (What has been agreed upon with MOE ?).

Point 2. The MOF DM and Minister briefing are already scheduled for next Tuesday September 12, 2017. We would require a sign-off by the Minister of Energy before the briefing, depending on the answer in point 1.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan,

Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else

that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

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Sent: August 31, 2017 10:44 AM
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Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Gavin He; Tobias P. Whitfield (MOF); Hosick, Sarah (TBS); Keley Katona (ENERGY); Hilary Cox (ENE); Jonathan Tekle (CAB); Thouin, Alena (ENERGY); James Rehob (ENERGY)
Subject:	RE: TB/MBC Submission on Provincial Protection Agreement - revised draft
Date:	Tuesday, September 12, 2017 10:04:15 PM

Nothing further from Energy LSB

From: Anna Strathy [Anna.Strathy@ofina.on.ca]
Sent: September 12, 2017 8:44 PM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); McKinlay, Tom (ENERGY); Hanslep, Malle (MOF); Nelms, Scott (MOF); Reiss, Anthony (MOF)
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Subject: TB/MBC Submission on Provincial Protection Agreement - revised draft

Good evening,

Please find attached, a revised draft of the TB submission on the (newly titled) Provincial Protection Agreement, which incorporates input from MOF Corporate and MOF Legal. Both clean and track change versions are attached. Please advise as soon as possible if you have any further comments or edits.

Thank you, Anna

--
Anna Strathy
Ontario Financing Authority
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Sent: Monday, September 11, 2017 5:05 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a “Support Agreement”) tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca<mailto:anna.strathy@ofina.on.ca>

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Steen Hume (CAB) <Steen.Hume@ontario.ca<mailto:Steen.Hume@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca<mailto:Tom.McKinlay@ontario.ca>>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca<mailto:Vivienne.Skoberne@ontario.ca>>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca<mailto:stephanie.m.smith@ontario.ca>>; Deena Padamadan <Deena.Padamadan@ofina.on.ca<mailto:Deena.Padamadan@ofina.on.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca<mailto:Sarah.Hosick@ontario.ca>>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca<mailto:Kaitlin.Montgomery@ontario.ca>>; Matthew Breadner <Matthew.Breadner@ofina.on.ca<mailto:Matthew.Breadner@ofina.on.ca>>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Steen Hume (CAB) <Steen.Hume@ontario.ca<mailto:Steen.Hume@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca<mailto:Tom.McKinlay@ontario.ca>>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca<mailto:Vivienne.Skoberne@ontario.ca>>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca<mailto:stephanie.m.smith@ontario.ca>>; Deena Padamadan <Deena.Padamadan@ofina.on.ca<mailto:Deena.Padamadan@ofina.on.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca<mailto:Sarah.Hosick@ontario.ca>>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca<mailto:Kaitlin.Montgomery@ontario.ca>>; Matthew Breadner <Matthew.Breadner@ofina.on.ca<mailto:Matthew.Breadner@ofina.on.ca>>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Steen Hume (CAB) <Steen.Hume@ontario.ca<mailto:Steen.Hume@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca<mailto:Vivienne.Skoberne@ontario.ca>>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca<mailto:stephanie.m.smith@ontario.ca>>; Deena Padamadan <Deena.Padamadan@ofina.on.ca<mailto:Deena.Padamadan@ofina.on.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca<mailto:Sarah.Hosick@ontario.ca>>; 'Montgomery, Kaitlin (MOF)'

<Kaitlin.Montgomery@ontario.ca<mailto:Kaitlin.Montgomery@ontario.ca>>; Matthew Breadner <Matthew.Breadner@ofina.on.ca<mailto:Matthew.Breadner@ofina.on.ca>>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but we are hoping to have your comments (even preliminary comments) by noon tomorrow. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca<mailto:anna.strathy@ofina.on.ca>

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From:	Hanslep, Malle (MOF)
To:	Mike Manning; Ken Kandeepan; Ronald Kwan; Gadi Mayman; Anna Strathy; Tobias P. Whitfield (MOF)
Subject:	RE: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust
Date:	Tuesday, April 25, 2017 10:01:02 AM

Hi Mike,

Would you like to have a call a bit later this morning, i.e. 11 or so to discuss the Support Agreement and any further information you may have obtained about it. After that we can follow up further with Energy Legal on it and maybe Blakes who is the province's outside counsel.

The range of beneficiaries as outlined in the draft term sheet is very broad. I would think that if the Province were to provide a financial guarantee it would be with respect to obligations arising under specific agreements, i.e. payment of principal interest on bonds, notes, credit facility and the guarantee would be specifically written in favour of the lenders, or the swap counterparties under a specific swap agreement or transaction. For example "credit enhancers" seems to be a pretty general term to be using as a "beneficiary" of a provincial guarantee. It's a bit difficult to provide comments on the guarantee scope when we are not familiar with the proposed transaction. Also, as noted we don't have experience with the Performance Guarantee aspect and how that would work.

Also, footnote 2 references a requirement that would be in regulations. We did note an unusual provision in the draft legislation which references the Province not taking any action that might impair the investment asset. I think this sort of provision is found in the U.S. state legislation authorizing the Duke Power and Long Island Power Authority transactions that are examples of similar transactions according to Energy.

Malle

From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: April 24, 2017 4:06 PM
To: Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA); Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Just got this from John Lee today. Will talk to him shortly to get more colour.

Regards, Mike

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, April 24, 2017 2:13 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: PRESTON Stuart -TREASURY <stuart.preston@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>
Subject: Term Sheet - Provincial Support Agreement relating to the Fair Hydro Trust

Mike:

Further to our discussion last week, please find attached the draft term sheet relating to the Provincial Support. In this draft the Province will assume the obligations of the debt under certain conditions. The plan is to send this document to the Dealers for their input once we get comments or concurrence from your group. Stu Preston will coordinate the discussions with the Dealers on this issue from our side. Would it be yourself or someone else from your group addressing this issue from the OFA perspective? I expect there will be some back and forth on this issue and eventually rating agency input as well.

John

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From:	Hanslep, Malle (MOF)
To:	Ronald Kwan
Cc:	Tobias P. Whitfield (MOF); John Kim; Bruno Amara
Subject:	RE: Timeline
Date:	Wednesday, June 14, 2017 10:41:50 AM

Thanks Ronald. I don't know if this is the document or not. We heard about it on a call just now with Energy legal and Blakes.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 14, 2017 10:33 AM
To: Hanslep, Malle (MOF)
Cc: Whitfield, Tobias P. (MOF); Kim, John (OFA); Bruno Amara
Subject: RE: Timeline

Hi Malle,

I had heard last week that there was no Energy weekly tomorrow. Perhaps there's another weekly referred to for one of the work streams?

At last week's Energy weekly, OPG distributed a "Gantt chart" that may be of interest.

Ron

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: June-14-17 10:07
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Timeline

I hear that there is a critical path document that OPG has provided for a weekly update meeting tomorrow? Do you have that?

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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From:	Hanslep, Malle (MOF)
To:	Ronald Kwan; Tobias P. Whitfield (MOF); Ken Kandeepan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:58:01 PM

My only restriction on Monday is that I'm not free between 1 and 2.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 15, 2017 4:54 PM
To: Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

I'd be free after 11:30.

Ron

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: June-15-17 16:53
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

We have conflicts tomorrow afternoon. Can we schedule something for Monday morning?

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 15, 2017 4:45 PM
To: Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

Agreed it would be good to meet to discuss, and 2:30 works for me.

Ron

From: Ken Kandeepan
Sent: June-15-17 16:44
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

That makes sense, Mike and I have the OFA Board tomorrow till 2 PM, if everyone is free after that we can perhaps meet at the OFA at 2.30 or teleconference at the same time.

Thanks

Ken k

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, June 15, 2017 4:41 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

Hi,

I just wanted to follow up on this and see if there is an appetite to discuss this amongst our smaller group at this point. Energy is briefing up on this draft and we probably should meet with them and our outside counsel at Blakes soon to come to a decision about how this draft will be communicated to the other parties to this transaction.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: June 14, 2017 12:47 PM

To: Manning, Mike (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: Updated Draft Provincial Support Discussion Document

Please find attached a markup of the proposal from OPG regarding the Provincial Support Agreeement.

This markup is the result of discussions between us at MOF Legal, lawyers from Energy Legal and the Province's external counsel at Blakes.

The changes are significant and we would like to get your feedback on our proposed approach. Perhaps we can have a discussion first with this group, and then a broader discussion with the Energy team and Stephen Ashbourne from Blakes.

Please let us know when you have had a chance to review and are available to discuss.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From:	Ronald Kwan
To:	Tobias P. Whitfield (MOF); Ken Kandeepan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:54:02 PM

I'd be free after 11:30.

Ron

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: June-15-17 16:53
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
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Phone: 416-325-1456

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Sent: June 15, 2017 4:45 PM
To: Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

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Sent: June-15-17 16:44
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Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF)

<James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

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Ken k

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Sent: Thursday, June 15, 2017 4:41 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

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Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: June 14, 2017 12:47 PM
To: Manning, Mike (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: Updated Draft Provincial Support Discussion Document

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Province's external counsel at Blakes.

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Please let us know when you have had a chance to review and are available to discuss.

Best
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Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
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Toronto, ON, M5G 2C8
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Phone: 416-325-1456

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From:	Ken Kandeepan
To:	Tobias P. Whitfield (MOF); Ronald Kwan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:54:02 PM

I am quite free Monday, so anytime is good.

Ken k

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, June 15, 2017 4:53 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

We have conflicts tomorrow afternoon. Can we schedule something for Monday morning?

Toby

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Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 15, 2017 4:45 PM
To: Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

Agreed it would be good to meet to discuss, and 2:30 works for me.

Ron

From: Ken Kandeepan
Sent: June-15-17 16:44
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF)

<James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

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From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, June 15, 2017 4:41 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: RE: Updated Draft Provincial Support Discussion Document

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From:	Whitfield, Tobias P. (MOF)
To:	Ronald Kwan; Ken Kandeepan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:53:03 PM

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Toby

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To: Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
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To:	Ken Kandeepan; Tobias P. Whitfield (MOF); Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:45:28 PM

Agreed it would be good to meet to discuss, and 2:30 works for me.

Ron

From: Ken Kandeepan
Sent: June-15-17 16:44
To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
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Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:44:04 PM

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From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 4:41:23 PM

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From:	Whitfield, Tobias P. (MOF)
To:	Malle Hanslep (MOF); Ronald Kwan; Ken Kandeepan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Elcombe, James (MOF)
Subject:	RE: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 6:37:14 PM

How about a call at 11:30?

Tobias Whitfield
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From: Hanslep, Malle (MOF)
Sent: Thursday, June 15, 2017 4:57 PM
To: Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

My only restriction on Monday is that I'm not free between 1 and 2.

From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
Sent: June 15, 2017 4:54 PM
To: Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
Subject: RE: Updated Draft Provincial Support Discussion Document

I'd be free after 11:30.

Ron

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: June-15-17 16:53
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Opal Kandelas <Opal.Kandelas@ofina.on.ca<mailto:Opal.Kandelas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
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Ministry of Finance
777 Bay Street, 11th Floor
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Phone: 416-325-1456

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From:	Anna Strathy
To:	David McLean (MOF); Nancy Kennedy (MOHLTC)
Cc:	Vivienne Skoberne (MOHLTC); Gadi Mayman; Ken Kandeepan; Ronald Kwan; Deena Padamadan; Keley Katona (ENERGY); Jonathan Tekle (CAB)
Subject:	RE: material for tomorrow"s meetings
Date:	Tuesday, August 15, 2017 3:09:56 PM
Attachments:	Provincial Guarantee and Other Financing Issues (OFA) 08152017.docx

Hi Nancy, Dave,

Please find attached, a short note to support the discussion on the Provincial Guarantee at the 11am meeting tomorrow with the SoC/CO/PO.

Dave, I'm copying Keley so that she can share with her Energy colleagues.

Thanks, Anna

From: McLean, David (MOF) [mailto:David.McLean@ontario.ca]
Sent: Tuesday, August 15, 2017 11:27 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: material for tomorrow's meetings

Great, thanks Anna!

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 15, 2017 11:23 AM
To: McLean, David (MOF)
Subject: RE: material for tomorrow's meetings

Yes, we are just drafting it now (we had a call at 10:30 – things are still in flux with the guarantee). I'm hoping to have Gadi look at the note around 2pm or sooner.

From: McLean, David (MOF) [mailto:David.McLean@ontario.ca]
Sent: Tuesday, August 15, 2017 10:58 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: FW: material for tomorrow's meetings

Hey Anna – just wondering if you guys will be sharing this one pager today?

From: Kwamena, Boafoa (CAB)
Sent: August 15, 2017 10:40 AM
To: McLean, David (MOF)
Subject: FW: material for tomorrow's meetings

Hi Dave

See below. I want to make sure that the one pager from OFA/MOF on the provincial guarantee is on your radar. Thanks

---

From: Schlaepfer, Martin (ENERGY)
Sent: August 15, 2017 10:16 AM
To: Kwamena, Boafoa (CAB); Armstrong, Hillary (ENERGY)
Cc: Greenberg, Martha (CAB); Foster, Robert (CAB)
Subject: Re: material for tomorrow's meetings

Hi Boafoa,

We're still finalizing materials for tomorrow's meetings, incorporating edits from our MO. We should have something to share later today.

Just for clarity there will be two decks from Energy (one on Quebec and one on the LTEP price curve) and a one pager from the OFA/MOF on the Provincial Guarantee. We haven't seen a draft of the one pager yet.

Thanks,
Martin

From: Kwamena, Boafoa (CAB)
Sent: Tuesday, August 15, 2017 10:09 AM
To: Armstrong, Hillary (ENERGY)
Cc: Schlaepfer, Martin (ENERGY); Greenberg, Martha (CAB); Foster, Robert (CAB)
Subject: material for tomorrow's meetings

Good morning Hillary

Just want to confirm that we will receive material for distribution for tomorrow's energy related meetings. You will notice that the meeting time changed. These changes were requested by Andrew Bevan's office to accommodate his schedule. Thanks
Boafoa

Boafoa Kwamena
Special Advisor
Office of the Secretary of the Cabinet
Cabinet Office
416-325-4400
Boafoa.kwamena2@ontario.ca

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PROVINCIAL GUARANTEE AND OTHER FINANCING ISSUES

ISSUE

To support the Fair Hydro Plan, OPG is requesting that the Government of Ontario provide a guarantee to the OPG Financing Entity and prospective debt holders such that the funding obligations of the Financing Entity will be met by the Province under certain circumstances.

TERMS OF THE GUARANTEE

Events that would activate the Provincial Guarantee:

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments that adversely affect the OPG Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

Guarantee:

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers (i.e., trustees, auditors).
- The Provincial guarantee will continue until all obligations of the Financing Entity are fully discharged.

Recommendation:

- Pending review by MOF Legal, Energy Legal and external counsel (Blake's), recommend TB/MBC approve the terms of the Guarantee as set out in the term sheet and further detailed in the draft guarantee document to be provided by OPG.

OTHER FINANCING/ACCOUNTING RISKS TO BE RESOLVED

Commingling Risk:

- Refers to the risk associated with unrated/below investment grade Local Distribution Companies (LDCs) not remitting collections from ratepayers to the IESO.
- IESO to provide either a Letter of Credit or assume responsibility for this risk amounting to the expected Clean Energy Adjustment from these LDCs over the

next 45-60 days. OPG estimates the Letter of Credit to be approximately $50 million.
- IESO expressed concerns both from a mandate and accounting perspective on issuing either a Letter of Credit or assuming responsibility for the commingling risk.

Warehouse Takeout Risk:

- Refers to the risk associated with the Financing Entity unable to issue debt in order to pay down the short term financing provided by its banks.
- There may be potential costs to the ratepayer in the form of higher interest rates from the step–up pricing clause in the Financing Entity's agreement with the banks providing the short term financing.

NEXT STEPS

- MOF Legal, Energy Legal and external counsel (Blake's) to review term sheet and draft guarantee document
- OPG/IESO to consider outstanding financing/accounting issues
- TB/MBC decision on Provincial Guarantee (September TBC)

Ontario Financing Authority
August 15, 2017

From:	Anna Strathy
To:	David McLean (MOF); Nancy Kennedy (MOHLTC)
Cc:	Vivienne Skoberne (MOHLTC); Gadi Mayman; Ken Kandeepan; Ronald Kwan; Deena Padamadan; Keley Katona (ENERGY); Jonathan Tekle (CAB)
Subject:	RE: material for tomorrow"s meetings
Date:	Wednesday, August 16, 2017 10:13:01 AM
Attachments:	Term Sheet - Provincial Support Agreement - 08-14-2017.docx

Hi Dave, Nancy,

For your reference, the term sheet is attached (it is referenced in the briefing note). This remains a working draft (subject to legal review).

Thanks, Anna

From: Anna Strathy
Sent: Tuesday, August 15, 2017 3:10 PM
To: David McLean (MOF) <David.McLean@ontario.ca>; Nancy Kennedy (MOHLTC) <Nancy.Kennedy@ontario.ca>
Cc: Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
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Boafoa

Boafoa Kwamena
Special Advisor
Office of the Secretary of the Cabinet
Cabinet Office
416-325-4400
Boafoa.kwamena2@ontario.ca

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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.*

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; (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; (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; (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

	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.]**
Guarantee:	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.*	
<u>Commingling Risk (applies to Warehouse as well as any Term transactions)</u>	
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

From: Ronald Kwan
To: Scott Nelms (ENERGY)
Cc: Vivienne Skoberne (MOHLTC)
Subject: Re: CEFD and MO Bi-weekly
Date: Friday, July 21, 2017 1:51:37 PM

Hi Scott,

Marianne asked about the status of the Provincial Support Agreement and if the Minister would need to be briefed and sign something during the summer.

Would you have time this afternoon to discuss the current status and timing.

Thanks,
Ron

From: Gavin He
Sent: July 21, 2017 12:20 PM
To: Marianne Nguyen (MCYS); Jonathan Tekle (CAB); Nancy Kennedy (MOHLTC); Vivienne Skoberne (MOHLTC); Scott Nelms (ENERGY); Gwendolynne Young (ENE); Ronald Kwan; 'priscilla.hsu@ontario.ca'; 'Smith, Stephanie M. (MOF)'
Subject: RE: CEFD and MO Bi-weekly

Hi all,

Please find attached the agenda for today's meeting:

Regards,
Gavin He

-----Original Appointment-----
From: Gavin He
Sent: Tuesday, July 18, 2017 3:25 PM
To: Gavin He; Marianne Nguyen (MCYS); Jonathan Tekle (CAB); Nancy Kennedy (MOHLTC); Vivienne Skoberne (MOHLTC); Scott Nelms (ENERGY); Gwendolynne Young (ENE); Ronald Kwan; 'priscilla.hsu@ontario.ca'; 'Smith, Stephanie M. (MOF)'
Subject: CEFD and MO Bi-weekly
When: Friday, July 21, 2017 1:15 PM-1:45 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Deputy's Boardroom, 7th FS

Rescheduled due to conflicts.

Hi all,

This is a bi-weekly meeting invite for CEFD/DMO/MO. CEFD will provide an agenda prior to the meeting.

Thanks,
Angie

From:	Gadi Mayman
To:	Malle Hanslep (MOF)
Cc:	Anna Strathy; Anthony Reiss (MGS); Keley Katona (ENERGY); Hilary Cox (ENE); Tobias P. Whitfield (MOF); Mike Manning; Ronald Kwan; Ken Kandeepan
Subject:	Re: CEO Approved TB Submission for Change of Law Assumption Agreement
Date:	Tuesday, September 12, 2017 7:57:18 AM

Phew! I'll start breathing again! Thanks for the clarification, Malle. Complex file, isn't this?

> On Sep 12, 2017, at 7:54 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Hi Gadi
>
> We do have authority to provide a guarantee or indemnity which is a charge on the CRF so that the Province can pay when due to the investors. It is the part where the province actually replaces the financing entity more officially as the debtor ie the optional replacement part that requires some more analysis and whether that fits under the guarantee authority
> Malle
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Gadi Mayman
> Sent: Tuesday, September 12, 2017 07:33
> To: Strathy, Anna (OFA)
> Cc: Hanslep, Malle (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)
> Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement
>
>
> I don't think that I understand how this would work, and it strikes me as a very significant issue going to the heart of the value of what we had been calling a guarantee and have now rebranded as an assumption agreement.
>
> How would investors get paid their principal and interest if we don't step in to take over the obligations in the case that the assumption agreement is triggered? I've been going on the assumption, pardon the slightly different use of that word, for the past few months that the Province immediately takes over the debt so that investors aren't at risk of a missed or delayed payment. If that's not possible under current legislation, we need TB to approve a solution that would be included in the Fall Budget Bill that allows us, and assures OPG, investors and the rating agencies, that they will continue to be paid if there is a triggering event, and that those payments will be on the same timelines as if there was no triggering event, unless I'm over interpreting what this means.
>
> Thanks,
> Gadi
>
> On Sep 12, 2017, at 7:03 AM, Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>> wrote:
>
> Thanks Malle. Not a problem. We may continue to receive comments on this draft as it moves through CAO, DM and Minister approvals. I'll prepare a track changes version for Legal sign-off today and recirculation to the group (assuming Gadi is comfortable with the changes).
>
> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: Monday, September 11, 2017 5:55 PM
> To: Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>
> Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca<mailto:Hilary.Cox@ontario.ca>>; Tobias P. Whitfield (MOF)

<Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>
> Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement
>
> Also, we had a further call with Blakes this afternoon regarding the optional replacement possibility and it is possible that the Province might need some additional legal authority to directly assume the debt (as it may not be considered to be an indemnity or guarantee) but since this is optional for the Province, the Province could to obtain that authority in the future. The purpose of having it in the term sheet is to identify this for OPG as an item which we may wish they include in their documentation with other parties to enable this option to be open. If this is happening in a change in law scenario the Province would likely give itself legislative authority to do this as part of the change in law, but we wanted to flag this now too so could we add "subject to obtaining the necessary authority" at the end of the paragraph beginning "In the event.." on p. 3. We haven't had a chance to fully analyze this at this point but think we should include this in the submission now.
>
> Sorry for these last minute comments.
>
> Malle
>
> From: Hanslep, Malle (MOF)
> Sent: September 11, 2017 5:41 PM
> To: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF)
> Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)
> Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement
>
> Re: 2(b) when I say the 2 last paragraphs, I mean the paragraphs below 2 (b)(i) and (ii).
>
> From: Hanslep, Malle (MOF)
> Sent: September 11, 2017 5:32 PM
> To: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF)
> Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)
> Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement
>
> Hi all,
>
> Sorry about this, but I have a few comments on this version which I hope are not too late. I know that this is moving quickly.
>
> 2(a) Can we add the word "substantially" in this proposed minute? Also, as we know and was only discussed this morning, the term sheet doesn't include support for the sub debt yet. Should this be included into the version or should we await confirmation from OPCD.
>
> 2(b) The 2 last paragraphs should be deleted because the current OIC draft does not specify terms and conditions or a maximum liability as this will be left to the Ministers to determine.
>
> p. 3 – second bullet point Should be "A court decision that declares the ability of the Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable."
>
> Same changes in Recommendation section.
>
>
>
> From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
> Sent: September 11, 2017 5:04 PM
> To: Reiss, Anthony (MOF); Katona, Keley (MOF); Hanslep, Malle (MOF)
> Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)
> Subject: CEO Approved TB Submission for Change of Law Assumption Agreement
>
> Anthony, Keley, Malle,

>
> Please find attached, the CEO-approved TB Submission for the Assumption Agreement tracking to TB/MBC for the Sep 26 meeting. This version now incorporates input from Energy. I'm also attaching, for your briefing purposes, a deck (slightly revised from the one Keley prepared for the Minister of Energy's briefing two weeks ago).
>
> Keley, could I ask you to please pass this version of the submission along to the Energy DMO for review?
> Malle, we'll be looking for Legal sign-off tomorrow. Not sure if you or Michael will be signing off, but I'm happy to swing by 777 Bay at your convenience tomorrow with the approval package.
> Anthony, I'll resend a scan with Legal sign-off once we have it.
>
> Please don't hesitate to contact me should you have any questions.
>
> Thanks, Anna
>
> Anna Strathy
> Special Policy Advisor to CEO
> Ontario Financing Authority
> 1 Dundas Street West, 14th Floor
> 416.325.8032 | anna.strathy@ofina.on.ca<mailto:anna.strathy@ofina.on.ca>
>
>
> _____
>
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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Anna Strathy
Cc:	Anthony Reiss (MGS); Keley Katona (ENERGY); Hilary Cox (ENE); Tobias P. Whitfield (MOF); Mike Manning; Ronald Kwan; Ken Kandeepan
Subject:	Re: CEO Approved TB Submission for Change of Law Assumption Agreement
Date:	Tuesday, September 12, 2017 7:54:31 AM

Hi Gadi

We do have authority to provide a guarantee or indemnity which is a charge on the CRF so that the Province can pay when due to the investors. It is the part where the province actually replaces the financing entity more officially as the debtor ie the optional replacement part that requires some more analysis and whether that fits under the guarantee authority
Malle

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From: Gadi Mayman
Sent: Tuesday, September 12, 2017 07:33
To: Strathy, Anna (OFA)
Cc: Hanslep, Malle (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)
Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement

I don't think that I understand how this would work, and it strikes me as a very significant issue going to the heart of the value of what we had been calling a guarantee and have now rebranded as an assumption agreement.

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Thanks,
Gadi

On Sep 12, 2017, at 7:03 AM, Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>> wrote:

Thanks Malle. Not a problem. We may continue to receive comments on this draft as it moves through CAO, DM and Minister approvals. I'll prepare a track changes version for Legal sign-off today and recirculation to the group (assuming Gadi is comfortable with the changes).

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Monday, September 11, 2017 5:55 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca<mailto:Anthony.Reiss@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca<mailto:Hilary.Cox@ontario.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>
Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement

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possible that the Province might need some additional legal authority to directly assume the debt (as it may not be considered to be an indemnity or guarantee) but since this is optional for the Province, the Province could to obtain that authority in the future. The purpose of having it in the term sheet is to identify this for OPG as an item which we may wish they include in their documentation with other parties to enable this option to be open. If this is happening in a change in law scenario the Province would likely give itself legislative authority to do this as part of the change in law, but we wanted to flag this now too so could we add "subject to obtaining the necessary authority" at the end of the paragraph beginning "In the event.." on p. 3. We haven't had a chance to fully analyze this at this point but think we should include this in the submission now.

Sorry for these last minute comments.

Malle

From: Hanslep, Malle (MOF)
Sent: September 11, 2017 5:41 PM
To: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF)
Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)
Subject: RE: CEO Approved TB Submission for Change of Law Assumption Agreement

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2(a) Can we add the word "substantially" in this proposed minute? Also, as we know and was only discussed this morning, the term sheet doesn't include support for the sub debt yet. Should this be included into the version or should we await confirmation from OPCD.

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p. 3 – second bullet point Should be "A court decision that declares the ability of the Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable."

Same changes in Recommendation section.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:04 PM
To: Reiss, Anthony (MOF); Katona, Keley (MOF); Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF)
Subject: CEO Approved TB Submission for Change of Law Assumption Agreement

Anthony, Keley, Malle,

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Anthony, I'll resend a scan with Legal sign-off once we have it.

Please don't hesitate to contact me should you have any questions.

Thanks, Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca<mailto:anna.strathy@ofina.on.ca>

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From:	Gadi Mayman
To:	Anna Strathy
Cc:	Malle Hanslep (MOF); Anthony Reiss (MGS); Keley Katona (ENERGY); Hilary Cox (ENE); Tobias P. Whitfield (MOF); Mike Manning; Ronald Kwan; Ken Kandeepan
Subject:	Re: CEO Approved TB Submission for Change of Law Assumption Agreement
Date:	Tuesday, September 12, 2017 7:33:51 AM

I don't think that I understand how this would work, and it strikes me as a very significant issue going to the heart of the value of what we had been calling a guarantee and have now rebranded as an assumption agreement.

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> **Sent:** Monday, September 11, 2017 5:55 PM
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> **Cc:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> **Subject:** RE: CEO Approved TB Submission for Change of Law Assumption Agreement
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Thanks, Anna

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman
Cc:	Anna Strathy; Anthony Reiss (MGS); Keley Katona (ENERGY); Hilary Cox (ENE); Tobias P. Whitfield (MOF); Mike Manning; Ronald Kwan; Ken Kandeepan
Subject:	Re: CEO Approved TB Submission for Change of Law Assumption Agreement
Date:	Tuesday, September 12, 2017 8:01:15 AM

Yes it is and it s moving quite rapidly. We will speak with Steve again today about the terminology and analysis.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Gadi Mayman
Sent: Tuesday, September 12, 2017 07:57
To: Hanslep, Malle (MOF)
Cc: Strathy, Anna (OFA); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)
Subject: Re: CEO Approved TB Submission for Change of Law Assumption Agreement

Phew! I'll start breathing again! Thanks for the clarification, Malle. Complex file, isn't this?

> On Sep 12, 2017, at 7:54 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Hi Gadi
>
> We do have authority to provide a guarantee or indemnity which is a charge on the CRF so that the Province can pay when due to the investors. It is the part where the province actually replaces the financing entity more officially as the debtor ie the optional replacement part that requires some more analysis and whether that fits under the guarantee authority
> Malle
>
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> Sent: Tuesday, September 12, 2017 07:33
> To: Strathy, Anna (OFA)
> Cc: Hanslep, Malle (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Cox, Hilary (ENERGY); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA)
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> Anna Strathy
> Special Policy Advisor to CEO
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From: Ronald Kwan
To: Anna Strathy
Subject: Re: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 9:42:11 AM

Hi Matt,

Would you send me the revised deck and we can work on a slide.

That said, I believe the OIC requirement is in the draft TB submission that they seemed to have drawn on, and they should be very familiar with the requirements of the OFHP Act.

Ron

On Aug 24, 2017, at 9:38 AM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Ron,
>
> As per your question, this deck will be shared with both DMOs once its finalized.
>
> They've incorporated the feedback we provided, with the exception of the additional slide you'd suggested on the provision in the Act for the LGIC to authorise the two ministers to provide guarantees and indemnities.
>
> Keley is asking if the OFA can put that slide together. Is this something your team could assemble? Or would it be more appropriate for me to distribute to someone else?
>
> Thanks,
> Matt on behalf of Anna Strathy
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 23, 2017 4:41 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** Re: Draft Provincial Guarantee Deck
>
> Hi Matt,
>
> They seemed to have picked up similar text to the draft TB submission that Anna had circulated, which we had some wording suggestions on. Suggesting conforming edits to the slides would make sense.
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> I'd suggest a slide on the provision in the Act for the LGIC to authorise the two ministers, acting together, to provide guarantees and indemnities, subject to terms and conditions. It would help remind the Minister of Energy that he'd be signing things too (presumably the OIC submission and the agreement(s) (and

what about the TB submission too?).

Also, I would suggest that the slide on the IESO and LC note that the proposal was from OPG and the IESO was going to review the proposal (unless Keley has now heard back from the IESO and the option is fine with them?).

Generally, then, it might be good to note the work-in-progress status.

And the next steps should include the requirement to go to LRC and Cabinet for the OIC too.

Also, is IGB planning on sharing this with MOF DMO, or Energy DMO, or both?

Rn

From: Anna Strathy
Sent: August 23, 2017 4:17 PM
To: John Psinas; Ronald Kwan; Mike Manning; John Kim; James Devine; Carlos Yep
Subject: RE: Draft Provincial Guarantee Deck

Hi All,

Please let me know soon if anyone has additional comments on this deck, as I'll be providing OFA feedback EOD today.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: John Psinas
Sent: Wednesday, August 23, 2017 11:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Matt,

My suggested edits in red font, on slide 4.

Thanks.

John

From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From: Ronald Kwan
To: Anna Strathy
Subject: Re: Draft Provincial Guarantee Deck
Date: Wednesday, August 23, 2017 4:41:12 PM

Hi Matt,

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From: Anna Strathy
Sent: Wednesday, August 23, 2017 10:59 AM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: FW: Draft Provincial Guarantee Deck

Hi All,

Attached is a briefing deck for the Minister of Energy on the FHP Provincial Guarantee. The OFA has been asked to provide review and comments by EOD today.

They're also looking for an OFA attendee for the Minister of Energy's briefing next week, so please let me know if any of you would be willing to attend.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main

OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
Director | Investment Governance Branch
Government Business Enterprise Division | Ministry of Finance
Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
7th Floor, 375 University Ave, Toronto, ON

From: John Kim
To: Ronald Kwan
Subject: Re: Draft Provincial Guarantee Deck
Date: Thursday, August 24, 2017 12:23:23 PM

Thanks I had the same comment in the markup version. I just need to add a slide so should be done by 2

Sent from my iPhone

On Aug 24, 2017, at 12:08 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> FYI John.
> Ron
>
> ---
>
> **From:** Anna Strathy
> **Sent:** August-24-17 11:10
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Subject:** FW: Draft Provincial Guarantee Deck
>
> Hi Ron,
>
> As per Keley's comments below, Scott wants to exclude items not covered by the guarantee for the Minister's briefing so they are deleting slides 5/6.
>
> Thanks,
> Matt
>
> ---
>
> **From:** Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
> **Sent:** Thursday, August 24, 2017 11:07 AM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** FW: Draft Provincial Guarantee Deck
>
> Hi Matt,
> I just talked to Scott and we think it's best to exclude the items not covered by the guarantee for the Minister's briefing. The briefing should just focus on the guarantee (so we will delete slides 5/6).
> Thanks,
> Keley
>
> ---
>
> **From:** Katona, Keley (MOF)
> **Sent:** August 24, 2017 9:52 AM
> **To:** 'Anna Strathy' <Anna.Strathy@ofina.on.ca>
> **Subject:** RE: Draft Provincial Guarantee Deck

Hi Matt,
This version incorporates OFA / OPG Comments. I left a few of OPG comments without making edits. Can the OFA please review / make edits as they see fit?
Thanks,
Keley

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 24, 2017 9:43 AM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Could you send us the revised deck and we can work on a slide?

Thanks,
Matt

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Thursday, August 24, 2017 9:20 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: Draft Provincial Guarantee Deck

Thanks Matt, would the OFA be able to help craft the additional slide being suggested? I've made the other edits. We would share with both DMOs once it's finalized.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 23, 2017 5:42 PM
To: Katona, Keley (MOF) <Keley.Katona@ontario.ca>
Subject: RE: Draft Provincial Guarantee Deck

Hi Keley,

Sorry for the late response. Attached is the deck with OFA edits (page 4 in red) and some comment suggestions on pages 3 and 5. Additionally, the attached file has some general comments/recommendations.

One follow up question, are you planning on sharing this with MOF DMO, or Energy DMO, or both?

Please let me know if you have any questions.
Thanks,
Matt Breadner

From: Katona, Keley (MOF) [mailto:Keley.Katona@ontario.ca]
Sent: Wednesday, August 23, 2017 10:38 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: Draft Provincial Guarantee Deck

Hi Matt,

ENERGY has asked us to prepare a product for a Minister's briefing next week on the OFHP. They wanted a specific product on the Provincial Guarantee. Given the main OFA folks working on this file are on vacation, I've prepared the attached draft deck. I was hoping you could circulate this to folks internally for review and comment. We've been asked to provide a draft deck to the DMO tomorrow. Could you please aim to provide any OFA comments by end of day today.

Also, is there someone from the OFA who could attend next week's briefing to answer questions as required? Please let me know who that might be.

Thanks in advance,
Keley

Keley Katona
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Work: 416-325-1539 | Cell: 416-727-5696
E-mail: keley.katona@ontario.ca
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From: Ronald Kwan
To: Malle Hanslep (MOF)
Subject: Re: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
Date: Wednesday, August 23, 2017 7:03:19 PM

Hi Malle,

We work with Energy's protocols on distribution channels.

Ron

> On Aug 23, 2017, at 6:22 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> I don't understand why these documents can't be copied to everyone at the same time especially since it seem like MOF and OFA are the lead on the content of the guarantee
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> Sent from my BlackBerry 10 smartphone on the Rogers network.
> Original Message
> From: Ronald Kwan
> Sent: Wednesday, August 23, 2017 18:16
> To: Hanslep, Malle (MOF)
> Subject: Re: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
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> Ron
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>> Cc: Katona, Keley (MOF) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>, RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
>> Subject: Fwd: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
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>> From: "Ramchandani, Rima" <rramchandani@torys.com>
>> Sent: Aug 23, 2017 5:43 PM
>> To: "'ASHBOURNE, STEPHEN'" <STEPHEN.ASHBOURNE@blakes.com>
>> Subject: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
>> Cc: "Calwell, Carolyn (ENERGY/MEDEI/MRI)" <Carolyn.Calwell@ontario.ca>; LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; "Feldman, Michael"

<mfeldman@torys.com>; "Mansoori, Nina" <nmansoori@torys.com>; "Leibel, Robbie" <rleibel@torys.com>; "Ramchandani, Rima" <rramchandani@torys.com>
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>> Steve, as requested, attached are our current working drafts of the Fair Hydro Master Trust Indenture and Master Transfer and Servicing Agreement. Please note that these drafts are still in progress and, in particular, are subject to revision to reflect comments from OPG and the broader working group, as well as finalization of the mechanics of the payment of the debt carrying costs during the moratorium period (which we understand are expected to be paid by the IESO and addressed in a new regulation).
>>
>> Please let us know if you have any comments or questions on the attached. We are in the process of advancing the drafts of the DOT and management agreement and will forward those to you as soon as possible.
>>
>> Best,
>> Rima
>>
>> Rima Ramchandani
>>
>> P. 416.865.7666 | F. 416.865.7380 | 1.800.505.8679
>> 79 Wellington St. W., 30th Floor, Box 270, TD South Tower
>> Toronto, Ontario M5K 1N2 Canada | www.torys.com<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
>> [Torys LLP]<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
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>> <imagea9d76a.JPG>
>> <#23425981v12_TorysAtWork_ - Fair Hydro Plan Master Trust Indenture.docx>
>> <Fair Hydro - Master Transfer & Servicing Agreement (Alternative Funding Rebate Regulation Version).DOCX>
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From: Ronald Kwan
To: Malle Hanslep (MOF)
Subject: Re: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
Date: Wednesday, August 23, 2017 6:16:05 PM

Thanks Malle.

Ron

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> Sent: Aug 23, 2017 5:43 PM
> To: "'ASHBOURNE, STEPHEN'" <STEPHEN.ASHBOURNE@blakes.com>
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> Steve, as requested, attached are our current working drafts of the Fair Hydro Master Trust Indenture and Master Transfer and Servicing Agreement. Please note that these drafts are still in progress and, in particular, are subject to revision to reflect comments from OPG and the broader working group, as well as finalization of the mechanics of the payment of the debt carrying costs during the moratorium period (which we understand are expected to be paid by the IESO and addressed in a new regulation).
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> Please let us know if you have any comments or questions on the attached. We are in the process of advancing the drafts of the DOT and management agreement and will forward those to you as soon as possible.
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> Best,
> Rima
>
> Rima Ramchandani
>

> P. 416.865.7666 | F. 416.865.7380 | 1.800.505.8679
> 79 Wellington St. W., 30th Floor, Box 270, TD South Tower
> Toronto, Ontario M5K 1N2 Canada | www.torys.com<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
> [Torys LLP]<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
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> <#23425981v12_TorysAtWork_ - Fair Hydro Plan Master Trust Indenture.docx>
> <Fair Hydro - Master Transfer & Servicing Agreement (Alternative Funding Rebate Regulation Version).DOCX>

From: Ronald Kwan
To: Malle Hanslep (MOF)
Subject: Re: EXTERNAL – Fair Hydro -- Drafts of MTI and MTSA
Date: Wednesday, August 23, 2017 7:56:41 PM

And successfully done!

Have a good vacation.

Ron

> On Aug 23, 2017, at 7:24 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Yes thanks.
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> Sent from my BlackBerry 10 smartphone on the Rogers network.
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> From: Ronald Kwan
> Sent: Wednesday, August 23, 2017 19:03
> To: Hanslep, Malle (MOF)
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>>> Cc: Katona, Keley (MOF) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>, RYFA Ken -TREASURY

<ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>
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>>>
>>> Steve, as requested, attached are our current working drafts of the Fair Hydro Master Trust Indenture and Master Transfer and Servicing Agreement. Please note that these drafts are still in progress and, in particular, are subject to revision to reflect comments from OPG and the broader working group, as well as finalization of the mechanics of the payment of the debt carrying costs during the moratorium period (which we understand are expected to be paid by the IESO and addressed in a new regulation).
>>>
>>> Please let us know if you have any comments or questions on the attached. We are in the process of advancing the drafts of the DOT and management agreement and will forward those to you as soon as possible.
>>>
>>> Best,
>>> Rima
>>>
>>> Rima Ramchandani
>>>
>>> P. 416.865.7666 | F. 416.865.7380 | 1.800.505.8679
>>> 79 Wellington St. W., 30th Floor, Box 270, TD South Tower
>>> Toronto, Ontario M5K 1N2 Canada | www.torys.com<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
>>> [Torys LLP]<https://urldefense.proofpoint.com/v2/url?u=https-3A__na01.safelinks.protection.outlook.com_-3Furl-3Dhttp-253A-252F-252Fwww.torys.com-26data-3D02-257C01-257Cjohn.s.lee-2540opg.com-257C055c20aa5e104fbcb62a08d4ea6fcf70-257C962f21cf93ea449f99bf402e2b2987b2-257C0-257C0-257C636391213867355185-26sdata-3Dh0ROFVTFxPSwJPW4ig074OJeyiFhwavs2qYM561RMNI-253D-26reserved-3D0&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=lYqulJJnqfxO5431Uw8ghWAHz6F3PkI2znI7RPACN08&m=bcH1-6wsQPDlhODHVm0KhKFDyUzLtwUmAg_0UGQF1ns&s=z0xaXrxZDqu-xtvJnB0CyIP9bSR6y71DlRU7KevK_EQ&e= >
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>>> ----------
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>>> <imagea9d76a.JPG>
>>> <#23425981v12_TorysAtWork_ - Fair Hydro Plan Master Trust Indenture.docx>
>>> <Fair Hydro - Master Transfer & Servicing Agreement (Alternative Funding Rebate Regulation Version).DOCX>
>>
>> _____
>>
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From: Gadi Mayman
To: Scott Nelms (ENERGY)
Cc: Mike Manning; Ronald Kwan; Ken Kandeepan
Subject: Re: EXTERNAL – Provincial Guarantee for Fair Hydro Program
Date: Tuesday, April 18, 2017 11:13:14 AM

Thanks. Has TD seen this, or commented on it? The make whole provision, rather than just moving the outstanding bonds up to being provincial debt could be extremely expensive if the guarantee is triggered and exercised.

I assume the challenge to the rating is that we're not AAA, so the debt would be downgraded to our level, but this shows the flaw in the ratings methodology, because why would you want a guarantee from someone who is supposedly less credit worthy? This is definitely, in my mind, worth pushing back on.

Regards,
Gadi

Original Message
From: Nelms, Scott (MOF)
Sent: Tuesday, April 18, 2017 11:04 AM
To: Gadi Mayman
Subject: FW: EXTERNAL – Provincial Guarantee for Fair Hydro Program

Fyi

-----Original Message-----

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]

Sent: April 16, 2017 6:28 PM

To: Hume, Steen (ENERGY); Nelms, Scott (MOF)

Cc: Calwell, Carolyn (ENERGY/MEDEI/MRI); WONG Leslie -LAWDIV

Subject: Fw: EXTERNAL – Provincial Guarantee for Fair Hydro Program

Steen/Scott

Here is the initial view of the dealers on their ask. We can discuss further tomorrow. Maybe more efficient that we discuss prior to the group meeting in the afternoon

John

From: Persaud, Donnie - Debt Capital Markets <Donnie.Persaud@cibc.com>

Sent: Thursday, April 13, 2017 9:15 PM

To: LEE John -TREASURY; RYFA Ken -TREASURY; WONG Leslie -LAWDIV

Cc: 'Sebastiano, Rocco'; 'Mullen, Max M.'; Maciel, Andrew; 'david.dalbello@rbccm.com'; 'Smith, Elliot'; 'Ms Victoria M. Turnbull'; Persaud, Donnie - Debt Capital Markets; 'Benaiah, Ian'; 'Fullerton, Rick'; Adalja, Sunil; Alvi, Shariq; Peric, Christiane

Subject: EXTERNAL – Provincial Guarantee for Fair Hydro Program

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Hey John, Ken,

Further to our discussion earlier today, please see the note below which outlines our collective views on the Provincial guarantee that would be required for the Fair Hydro Program. Happy to discuss further.

There are two types of “guarantees” that we are looking for from the Province in relation to this program on the basis that any debt issued under the Fair Hydro Program will be AAA-rated. In addition, the following is based on the understanding that the transition charges collected from prescribed consumers will begin upon the commencement of the program and will not be subject to any cap or restrictions.

The legislation must include a specific reference to the Province being required to provide a guarantee on debt repayment and servicing in certain circumstances.

The first is “Springing Guarantee”, which would be via a legal agreement put in place when establishing the program and would require the Province to step in and assume responsibility for paying all amounts that are or become due in respect of (i) any of the outstanding funding obligations; (ii) the operation and maintenance of the financing entity; and (iii) any other amounts due in relation to the program that have not yet been paid (collectively, the “Fair Hydro Program Costs”). This Springing Guarantee would kick in should any of the following happen:

(1) There is any change in the legislation or regulations that is, or could be, adverse to finance entity noteholders or the legislation is determined to be ultra vires. In this situation, the Springing Guarantee would require the immediate repayment of all Fair Hydro Program Costs (including any makewhole prepayment obligations).

(2) There is a market disruption (i.e. there is a period of time when capital markets term funding is not available to take out the warehouse facilities (bank facility or ABCP)). In this situation, either (i) we start to charge ratepayers for principal recovery via transition charges; or (ii) the Province must be responsible for the immediate repayment of those warehouse facilities.

The period of time that must lapse before this Springing Guarantee becomes applicable with respect to the warehouse facilities can be set to accommodate a short term dislocation in the term funding market (6-18 months). We would note that depending on the size of the warehouse facility, if there is no term takeout for an extended period of time, it is likely that the warehouse facilities will also quickly reach their credit limits and the province would likely have to fund any future shortfalls if they wished to continue the program.

To the extent that the Springing Guarantee does not require the Province to make the repayment contemplated under scenario (1), but simply requires the Province to repay the debt in accordance with its original repayment terms, this may adversely impact the rating of the Fair Hydro Program.

The second type of guarantee we are looking for from the province is a performance guarantee. This is not a credit guarantee. The performance guarantee would require the Province to stand behind certain obligations of the Servicer (initially IESO) in the program. This performance guarantee would be included as part of the Securitization documents for the program. It would, amongst other things, require the province to stand behind (including taking responsibility for helping remedy any breaches in) the representations, warranties, or covenants made by the servicer. It would also require the province to ensure that the servicer performs its servicing activities as set out in the securitization documents and if it does not, put in place an alternative servicer who would perform those servicing activities. The performance guarantee would also include standing behind any indemnities that may be owing by the servicer.

Donnie Persaud | Executive Director | Debt Capital Markets | CIBC Capital Markets | CIBC World Markets Inc.

161 Bay Street, 5th Floor, Toronto ON M5J 2S8 | Tel: 416-594-7511 | Fax: 416-594-7760 |
donnie.persaud@cibc.com<mailto:donnie.persaud@cibc.com>

[cid:image001.jpg@01D2B497.94C53820]

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From: Hanslep, Malle (MOF)
To: Ronald Kwan
Cc: Ken Kandeepan; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 7:58:49 PM

Thanks Ron. Hopefully they will send something on Monday. I don't know what they mean by in sync.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ronald Kwan
Sent: Friday, August 18, 2017 18:10
To: Hanslep, Malle (MOF)
Cc: Kandeepan, Ken (OFA); Kim, John (OFA)
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY

<sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY
<j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY)
<Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY)
<Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall'
<Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

_____

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From: Ken Kandeepan
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides
Date: Friday, August 18, 2017 5:20:52 PM

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Thanks

Ken k

Sent from my iPhone

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> Hi John and John,
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> **Cc:** James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com>; LIU Sheen -TREASURY <sheen.liu@opg.com>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** RE: EXTERNAL – Revised Term Sheet & summary slides

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Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: James Devine <James.Devine@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: EXTERNAL – Revised Term Sheet

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From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

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From:	Hanslep, Malle (MOF)
To:	John Kim; Ken Kandeepan; Ronald Kwan
Cc:	Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy; Ronald Kwan; John Psinas; Carlos Yep; James Devine
Subject:	Re: EXTERNAL – Revised Term Sheet & summary slides
Date:	Friday, August 18, 2017 4:42:27 PM

Hi all

I got comments back from Steve on the term sheet today. I haven't reviewed them yet and will send them to you on Monday. There seem to be a lot of significant issues and as noted previously we don't have copies of any of the draft documents so it makes it very difficult to provide, comments on the term sheet and TB submission.
Thanks

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: John Kim
Sent: Thursday, August 17, 2017 12:03
To: Kandeepan, Ken (OFA); Hanslep, Malle (MOF); Kwan, Ronald (OFA)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

I will follow up on the request below.

Thanks,

John

From: Ken Kandeepan
Sent: Thursday, August 17, 2017 11:06 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

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Sent from my iPhone

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Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

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Malle

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Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

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As you stated, last week's meeting was a business meeting, without Legal representatives from various sides, including not having Steve Ashbourne attend, so I wouldn't think he'd have reviewed this new version either -- Ken, your sense on that?

Ron

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>
Sent: August 15, 2017 9:26 AM
To: Ken Kandeepan
Cc: Gadi Mayman; Ronald Kwan; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Ken,

Thank you for passing on the draft. I should send this on to Energy Legal as well in case they have not received it yet. Do you know if Steve Ashbourne of Blakes has been reviewing the term sheet recently and been involved in discussions on this?

This is the first version of the term sheet that we have received since it was sent over to OPG on late June. After that there was a response from Torys dated June 30th with some high level comments on the revised term sheet and an internal Provincial call to discuss the Province's response. Subsequently there was a meeting of representatives of the Province and OPG on July 13th which Toby and also Tom McKinlay of Energy legal attended to discuss considerations regarding the guarantee. It looks like there have been some further discussions regarding the term sheet and understand that there may have been a meeting on the business side last week but MOF LSB was not asked to participate. In order to provide comments on this term sheet, it will be helpful for us to find out more about what the business discussions have been and what approach the Province wishes to take and also consult with Energy Legal and Blakes.

Is there a track changes version of this term sheet from June? Also, as I recall back in early July, we were going to ask OPG to provide to us some of the more detailed documents and drafts that would be associated with this guarantee such as the Master Trust Indenture, etc. Do you know if OPG has shared any of that with the Province?

Thanks.

Malle

Malle Hanslep

Deputy Director

Ministry of the Attorney General

Ministry of Finance Legal Services Branch

Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

Pls note latest version, comments are appreciated.

Thanks

Ken k

Sent from my iPhone

Begin forwarded message:

From: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Date: August 14, 2017 at 7:45:58 PM EDT
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>, Gadi Mayman

<Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>, John Kim
<John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
Cc: Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Gadi, Ron and John

Pls see the attached revised guarantee and a short presentation on the salient points. It seems to include all of the revisions we requested, however, I will take another more detailed look. Ron and John one section particularly for your review, the Takeout Risk at the end of the Term Sheet indicates the link between the clean energy adjustment and the fair allocation amount as they impact the Takeout risk. I am not very clear about this so you may want to review this closely.

The request for the Letter of Credit still stands however, there is an alternative also provided we have to see tomorrow how comfortable IESO is with the latter.

Thanks

Ken K

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning
<Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep
<Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy
<Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY
<ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV
<leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY
<may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY
<sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY
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<Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall'
<Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

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From: Ronald Kwan
To: John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides
Date: Thursday, August 17, 2017 12:08:04 PM

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Ron

From: John Kim
Sent: August 17, 2017 11:58 AM
To: Ronald Kwan
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

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Sent: August 15, 2017 6:50 AM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF)
Subject: Fwd: EXTERNAL – Revised Term Sheet & summary slides

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Sent from my iPhone

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To:	Malle Hanslep (MOF); Ronald Kwan; John Kim
Cc:	Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy; Ronald Kwan; John Kim; John Psinas; Carlos Yep; James Devine
Subject:	Re: EXTERNAL – Revised Term Sheet & summary slides
Date:	Thursday, August 17, 2017 11:06:21 AM

Thanks Malle, as usual a clear and detailed analysis, since I am on vacation from today onwards may I pls request John Kim and Ron Kwan to follow up with you.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 9:23 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

> Hi Ken,
>
> Thanks for the additional information. I have already sent the draft to Energy Legal and will send it to Steve Ashbourne this morning.
>
> Here are my very high level preliminary comments on this. This appears to be a fresh document drafted by OPG and its counsel after the meeting in July and then further business discussion since then. There are no track changes in this document, but I compared it to the version the Province sent to OPG on June 22nd and there are quite a few differences.
>
> - <!--[if !supportLists]-->- <!--[endif]-->The last sentence in the opening italics that "the 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" has been deleted.
> - <!--[if !supportLists]-->- <!--[endif]-->It has been changed back to a guarantee from an indemnity.
> - <!--[if !supportLists]-->- <!--[endif]-->The Guarantee Activation Events have been expanded to include 5 as it seems that it has been restructured so that some of what was previously in the "performance" guarantee is added into (E), i.e. IESO's role.
> - <!--[if !supportLists]-->- <!--[endif]-->Concept of "materiality" has been deleted for (B) and (D).
> - <!--[if !supportLists]-->- <!--[endif]-->A concept of "any other discriminatory action including OEB Orders has been introduced.
> - <!--[if !supportLists]-->- <!--[endif]-->The Guarantee wording includes the word "assume" as opposed to just "pay".
> - <!--[if !supportLists]-->- <!--[endif]-->Also, the guarantee has reverted to some of the very general wording that the Province is guarantee "all of the obligations of the Financing Entity" not just the debt obligations. These include any other obligation of the Financing Entity 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 commission??

<!--[if !supportLists]-->- <!--[endif]-->Approval requirement has been changed so that Province does not have right to approve any specific guarantee of funding obligations or set of documents before the guarantee is applied as long as documents are consistent – but who decides?

<!--[if !supportLists]-->- <!--[endif]-->Also the second portion called Warehousing Takeout Risk and Servicing – it's mentioned that this is for information purposes only as these risk were included in previous versions – current proposals described here and it doesn't contain any requirement for the Province to directly backstop these risks. I would say perhaps similar risks might have been dealt with but this section looks new and I don't' understand what the Province's role is in providing these assurances. Legal would need more background on how this is supposed to work.

The authority for the Province's guarantee is contained in s. 5(3) of the Fair Hydro Act, 2017 and requires an OIC to authorize the Minister of Energy and the Minister of Finance, acting together on behalf of the Province to agree to guarantee/indemnity obligations associated with an investment interest. The LGIC may delegate to the Ministers to determine the terms and conditions of the guarantee and the maximum liability for the guarantee or may also specify this in the OIC. Given that it appears there will be multiple debt issuances as part of this financing program of the Financing Entity, we will have to determine how best to approach the drafting of the OIC and the guarantee in the context of this debt program. So far, we have not received any draft documents for the program such as the Master Trust Indenture, etc and as a result it is difficult to provide comments on the term sheet and in particular scope of the guarantee and how the province's approval of the terms and conditions might work in order to make the debt financing program of the Financing Entity work smoothly and effectively.

Is it possible to obtain drafts from OPG at this point. I believe that back in July on a call, it was mentioned that the next step was to ask for these drafts so that we can better understand how the proposed guarantee will fit with the proposed program documents. It's not possible to actually draft a guarantee without seeing these documents. Drafting provisions that contains "discriminatory action" type language can be difficult to ensure that there are no unforeseen consequences and that the Province's intent is captured.

It would also be helpful to find out a bit more about the timing as the briefing note mentions a TB decision in September to approve the guarantee. Is a TB submission being drafted as it would be helpful to see a draft of this as well.

I will pass on my general comments to Energy Legal and Steve as well. I understand that Scott's group is the business contact and I believe that there were Energy policy staff involved in some of the earlier calls and

meetings as well.

Perhaps it might be helpful to schedule a meeting for next week to discuss the various comments on this. If in the meantime, there is any more background or you are able to obtain draft agreements, this would be helpful.

Thanks.

Malle

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: August 16, 2017 12:01 PM
To: Hanslep, Malle (MOF)
Cc: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Strathy, Anna (OFA); Kwan, Ronald (OFA); Kim, John (OFA); John Psinas; Yep, Carlos (OFA); Devine, James (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle

Sorry for the delay in responding to your questions. First can you pls share the revised term sheet with Steven Ashbourne for his comments. Secondly, following protocol I have requested OPG to forward the same document to Energy Legal who may then reach out to you for consolidated comments.

With regard to business decisions from the last version: OPG and their advisors have removed any obligation on the part of the Province to either accelerate payments on the outstanding debt or pay a 1% premium in case the guarantee is invoked. The debt guarantee is now palatable from the Province's perspective and subject to Legal review of not only the Term Sheet but the draft guarantee document once we receive same from OPG, we are recommending provincial approval.

The servicing guarantee has now been restated as an IESO obligation requiring the Operator to either provide an Letter of Credit or assume responsibility for any shortfalls in the CEA arising from lower than investment grade/Non rated LDCs failing to remit their collections, for whatever reason, once the CEA kicks in

IESO is not comfortable with this requirement and is regrouping internally to respond, OPG has also agreed to examine other potential solutions for this issue. I am attaching a summary sheet that you may find useful, that outlines the issues in the Term Sheet and our responses.

Pls note that I have expanded the cc's to this email since I will on vacation starting tomorrow to Labour Day.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, August 15, 2017 10:12 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
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Cc:	Gadi Mayman; Mike Manning; Tobias P. Whitfield (MOF); Anna Strathy
Subject:	Re: EXTERNAL – Revised Term Sheet & summary slides
Date:	Tuesday, August 15, 2017 10:11:46 AM

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From: Hanslep, Malle (MOF)
To: Ken Kandeepan; Ronald Kwan
Cc: John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides
Date: Sunday, August 20, 2017 11:39:21 AM

Thank you

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ken Kandeepan
Sent: Sunday, August 20, 2017 11:26
To: Hanslep, Malle (MOF); Kwan, Ronald (OFA)
Cc: Kim, John (OFA)
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

I suspect the "in sync" reference is to ensuring that the subsidiary documents are in accordance with the principles outlined in the Master Indenture document, which will be provided to the province for review and comments.

Thanks

Ken k

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, August 18, 2017 7:59 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

Thanks Ron. Hopefully they will send something on Monday. I don't know what they mean by in sync.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ronald Kwan
Sent: Friday, August 18, 2017 18:10
To: Hanslep, Malle (MOF)
Cc: Kandeepan, Ken (OFA); Kim, John (OFA)
Subject: FW: EXTERNAL – Revised Term Sheet & summary slides

Hi Malle,

FYI.

Ron

-----Original Message-----
From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: August-18-17 18:04
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
Cc: MAUTI John -FIN & C CTRL <john.mauti@opg.com>; Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; WONG Leslie -LAWDIV <leslie.wong@opg.com>

Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

We are looking into what we can provide as the documents are evolving in parallel and we want to ensure what is provided is in sync.
Touching base with Torys on Monday on this.

-----Original Message-----
From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 18, 2017 5:21 PM
To: Ronald Kwan
Cc: LEE John -TREASURY; MAUTI John -FIN & C CTRL; Anna Strathy; John Kim
Subject: Re: EXTERNAL – Revised Term Sheet & summary slides

I have not received any drafts.

Thanks

Ken k

Sent from my iPhone

On Aug 17, 2017, at 7:43 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>> wrote:

Hi John and John,

On another issue related to the guarantee, MOF Legal has asked again about being able to review this in the full context of the proposed draft set of legal documents that set out, e.g. what the bond or debt instruments to be issued by the Financing Entity would look like such as the Master Trust Indenture, etc.

Not sure if OPG might have provided earlier drafts, say to Ken, who is now on vacation. Would you be able to send the latest drafts, so that MOF Legal can review the OPG draft term sheet in context.

Thanks,
Ron

From: Ken Kandeepan
Sent: August-16-17 11:31
To: 'LEE John -TREASURY' <john.s.lee@opg.com<mailto:john.s.lee@opg.com>>; MAUTI John -FIN & C CTRL <john.mauti@opg.com<mailto:john.mauti@opg.com>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; John Psinas <John.Psinas@ofina.on.ca<mailto:John.Psinas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>; 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca<mailto:Cindy.Veinot@ontario.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Hi John and John

One issue that I forgot to raise at the tele conference yesterday is the potential for the Province to purchase debt issued by the Financing Entity in the event of an impending warehouse default event coupled with the inability, for whatever reason, for the Entity to access the markets. Of course once, markets have stabilized the Province has the option to sell this note.

OPG was going to run this by E&Y to ascertain if such purchases impact the accounting treatment. Pls let us know.

Thanks and if you haven't already done so can you pls forward the revised term sheet to Energy Legal as well.

Thanks

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Monday, August 14, 2017 6:37 PM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>; RYFA Ken -TREASURY <ken.ryfa@opg.com<mailto:ken.ryfa@opg.com>>; WONG Leslie -LAWDIV <leslie.wong@opg.com<mailto:leslie.wong@opg.com>>; LAURETA LAPIRA May -TREASURY <may.lapira@opg.com<mailto:may.lapira@opg.com>>; LIU Sheen -TREASURY <sheen.liu@opg.com<mailto:sheen.liu@opg.com>>; HAHN PARKER Janet -TREASURY <j.hahnparker@opg.com<mailto:j.hahnparker@opg.com>>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca<mailto:Keley.Katona@ontario.ca>>; 'Kim Marshall' <Kim.Marshall@ieso.ca<mailto:Kim.Marshall@ieso.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet & summary slides

Ken:

As requested attached are the summary slides and the revised term sheet from the dealer group for your consideration.

John

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:29 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: RE: EXTERNAL – Revised Term Sheet

Thanks John

Ken k

From: LEE John -TREASURY [mailto:john.s.lee@opg.com]
Sent: Friday, August 11, 2017 11:28 AM
To: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; Anna Strathy <Anna.Strathy@ofina.on.ca<mailto:Anna.Strathy@ofina.on.ca>>
Subject: RE: EXTERNAL – Revised Term Sheet

Yes, they are working to that timeline.

From: Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
Sent: Friday, August 11, 2017 11:24 AM
To: LEE John -TREASURY
Cc: James Devine; Mike Manning; Carlos Yep; Anna Strathy
Subject: EXTERNAL – Revised Term Sheet

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Hi John

Just to follow up on Andrew Maciel's commitment to provide us with a revised term sheet for the guarantee reflecting yesterday's discussion, I was wondering if that can be done EOD Monday. I had a chat with Gadi and given some upcoming internal meetings at senior levels it would be helpful to provide the revised guarantee in front of decision makers.

Thanks

Ken k

_____

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from your system. Ontario Power Generation Inc.

From: Mike Manning
To: Gadi Mayman
Cc: Ronald Kwan; Ken Kandeepan; Anna Strathy; "james.devine@ofina.on.ca"; Carlos Yep
Subject: Re: FHP Debt guarantee
Date: Monday, June 19, 2017 11:33:18 AM

Jim and Carlos, although we've been looking to Steve Ashbourne and MOF Legal to provide input for a more general guarantee which would be consistent with your and my view. Meeting taking place today. Steve Ashbourne doesn't like OPG's term sheet approach as it likely takes away our future flexibility which is likely right. So I guess we get back to OPG soon with our thoughts which should reduce the importance of the OPG term sheet. Nevertheless they will need some basic assumptions, especially on the performance component. So make wholes and puts should not be on the table.mike
Sent from my iPhone

> On Jun 19, 2017, at 2:45 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:
>
> Hi Mike, who's working on the OPG guarantee while you're away? I'm at a meeting with Energy and Steen came up to me quite concerned to say that the latest version they saw from OPG and Tories was for quite a broad guarantee, including a make whole provision. If that's the case, it doesn't sound like they've taken on our comments and our unwillingness to provide a make whole, or a put, or any structure that could expose to the Province to having to make a multi-billion dollar payment rather than just stepping having to step in to replace OPG's coupon and principal payment obligations when they come due.
>
> Thanks,
> Gadi

From:	Gadi Mayman
To:	Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Anna Strathy
Subject:	Re: FHP Support Agreement OIC Draft
Date:	Thursday, September 07, 2017 9:46:03 PM

Thanks, Malle. I think it would be very helpful for you and Toby to be on the call to, hopefully, prevent this discussion from going down unnecessary rabbit holes. My concern is that, to use a term that I often hear lawyers use in a different context, time is of the essence, and it's important that Torys isn't simply using this as an opportunity to extract even more billable hours from what has already been a very profitable file for them.

I had a discussion with OPG's CFO, Ken Hartwick this morning and he told me that they were satisfied with the term sheet, so I don't know why, if their client is satisfied, Torys feels the need to prolong this discussion. To meet the timelines to get this through both our ministries and then have the submission signed by the two DMs and Ministers in time to meet TB's deadlines, this has to be ready to go to CQSD by the end of the day tomorrow, so I don't want to enter into a new round of negotiations with Torys.

Thanks again, Malle. I really appreciate having you and Toby on our side.

Gadi

Original Message
From: Hanslep, Malle (MOF)
Sent: Thursday, September 7, 2017 6:32 PM
To: Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Gadi Mayman; Anna Strathy
Subject: RE: FHP Support Agreement OIC Draft

Hi all,

Torys has invited Steve, MOF LSB and Energy LSB to a call tomorrow morning for the lawyers to go over the changes that were made to the term sheet so that they can better understand them. We think it would be helpful to discuss the wording with them directly so Toby and I propose to join the call unless there any concerns about it. It may be constructive for us to discuss the wording directly with Torys and then we would report back to you with on the call. We might also get a better idea of how the guarantee timing will fit in with the timing of the proposed debt issuances. Please let us know if you have any concerns about this.

Malle

-----Original Message-----
From: Whitfield, Tobias P. (MOF)
Sent: September-07-17 5:53 PM
To: Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Hanslep, Malle (MOF)
Subject: FHP Support Agreement OIC Draft

Please find attached, for your review and comment, a draft OIC authorizing the Minister of Finance and the Minister of Energy to give a guarantee/indemnity under the Fair Hydro Plan Act.

This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON
M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From:	Gadi Mayman
To:	Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Anna Strathy
Subject:	Re: FHP Support Agreement OIC Draft
Date:	Friday, September 08, 2017 9:42:56 AM

In terms of timing, one thing that I didn't mention yesterday about my conversation with Ken H is that he told me that their timing is even tighter than ours. On their critical path, they feel that in order to get the financing done this calendar year, they have to re-engage with the rating agencies next week. A critical part of that re-engagement includes providing a draft version of the term sheet. That won't work if we're still negotiating it with them, so our runway for tinkering is done, and Torys is just going to have to accept that what we've provided is the best deal they're going to get.

Regards,
Gadi

Original Message
From: Hanslep, Malle (MOF)
Sent: Friday, September 8, 2017 9:26 AM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Anna Strathy
Subject: RE: FHP Support Agreement OIC Draft

Thanks Gadi.

-----Original Message-----
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: September 7, 2017 9:46 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Strathy, Anna (OFA)
Subject: Re: FHP Support Agreement OIC Draft

Thanks, Malle. I think it would be very helpful for you and Toby to be on the call to, hopefully, prevent this discussion from going down unnecessary rabbit holes. My concern is that, to use a term that I often hear lawyers use in a different context, time is of the essence, and it's important that Torys isn't simply using this as an opportunity to extract even more billable hours from what has already been a very profitable file for them.

I had a discussion with OPG's CFO, Ken Hartwick this morning and he told me that they were satisfied with the term sheet, so I don't know why, if their client is satisfied, Torys feels the need to prolong this discussion. To meet the timelines to get this through both our ministries and then have the submission signed by the two DMs and Ministers in time to meet TB's deadlines, this has to be ready to go to CQSD by the end of the day tomorrow, so I don't want to enter into a new round of negotiations with Torys.

Thanks again, Malle. I really appreciate having you and Toby on our side.

Gadi

Original Message
From: Hanslep, Malle (MOF)
Sent: Thursday, September 7, 2017 6:32 PM
To: Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Mike Manning; Gadi Mayman; Anna Strathy
Subject: RE: FHP Support Agreement OIC Draft

Hi all,

Torys has invited Steve, MOF LSB and Energy LSB to a call tomorrow morning for the lawyers to go over the changes that were made to the term sheet so that they can better understand them. We think it would be helpful to discuss the wording with them directly so Toby and I propose to join the call unless there any concerns about it. It may be constructive for us to discuss the wording directly with Torys and then we would report back to you with on the call. We might also get a better idea of how the guarantee timing will fit in with the timing of the proposed debt issuances. Please let us know if you have any concerns about this.

Malle

-----Original Message-----
From: Whitfield, Tobias P. (MOF)
Sent: September-07-17 5:53 PM
To: Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Manning, Mike (OFA); Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Hanslep, Malle (MOF)
Subject: FHP Support Agreement OIC Draft

Please find attached, for your review and comment, a draft OIC authorizing the Minister of Finance and the Minister of Energy to give a guarantee/indemnity under the Fair Hydro Plan Act.

This draft gives a lot of authority to the Ministers to determine the scope and content of the guarantee. It would be helpful to consider whether additional terms and conditions (including a maximum amount or other limitations) should be included.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
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Phone: 416-325-1456

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From:	Gadi Mayman
To:	Mike Manning; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; John Kim; Carlos Yep; James Devine
Cc:	Anna Strathy; Ken Kandeepan; Ronald Kwan
Subject:	Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt
Date:	Friday, September 08, 2017 1:19:51 PM

I'm entirely in line with your thoughts, Mike. My understanding is that vote whole reason that they had to do their own debt was to put risk on themselves, not transfer it all over to the Province.
Gadi

Original Message
From: Mike Manning
Sent: Friday, September 8, 2017 12:37 PM
To: Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; John Kim; Carlos Yep; James Devine; Gadi Mayman
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

No it wouldn't, but that is a good question. I have been assuming that the provincial support agreement would only apply to the 51% senior debt, but OPG just let me know that the subordinated debt will be quite a bit more expensive without a provincial support agreement. Roughly, they currently estimate that the senior debt will be priced 20-25 bps over the Province of Ontario. The subordinated they see about 100 bps back of the Senior if it has a provincial support agreement. They are now indicating, based on dealer feedback, that without a provincial support agreement, the subordinated will be about 100-200 bps more expensive if it doesn't have a provincial support agreement. Anyway, I don't think we should be expanding the support to the subordinated debt as this will greatly increase the Province's exposure. We may have to address ways to keep the subordinated more cost-effective. Thoughts appreciated.

Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 12:09 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Would the late September early Oct:ober issuance be expected to benefit from the provincial support agreement?

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Mike Manning
Sent: Friday, September 8, 2017 12:04
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Cc: Manning, Mike (OFA)
Subject: RE: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

OPG doesn't have a full financing plan at this time. I believe they are hoping to firm up numbers from Energy fairly shortly, before they meet the ratings agencies. They are currently thinking of issuing $300 to $500 million in late September/early October. Roughly $125 million of this will be to fund the subordinated (5% requirement on roughly

$2.5 billion of annual funding). The senior debt (the 51% that we are focussing on) is roughly planned for late November with roughly $400 million of issuance and then follow-up issuance on a fairly regular basis thereafter. Hope this is helpful.
Regards, Mike

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Friday, September 08, 2017 11:39 AM
To: Mike Manning <Mike.Manning@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Slightly different question. Have you seen a draft of the financing plan or know when it might be available?

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Hanslep, Malle (MOF)
Sent: Friday, September 8, 2017 11:36
To: Manning, Mike (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: Re: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Yes we just got this from Energy

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Mike Manning
Sent: Friday, September 8, 2017 11:02
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kim, John (OFA); Yep, Carlos (OFA); Devine, James (OFA); Mayman, Gadi (OFA)
Subject: FW: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Hi Guys:
Not sure if you have seen this but passing it along. We may want to have this option, but running out of time.

Mike

From: WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
Sent: Thursday, September 07, 2017 4:20 PM
To: James Rehob (ENERGY) <James.Rehob@ontario.ca>
Cc: LEE John -TREASURY <john.s.lee@opg.com>; RYFA Ken -TREASURY <ken.ryfa@opg.com>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Mike Manning <Mike.Manning@ofina.on.ca>
Subject: Fair Hydro - Option for Province to Cure Default before Acceleration of Debt

Dear James,

During the discussions of the Provincial guarantee at a recent Thursday rate mitigation meeting, OPG raised the issue of potential acceleration of financing entity debt where the guarantee is not applicable. That would occur if there is an event of default (e.g. if the trust is not able to pay/service the debt) for a reason that doesn't trigger the guarantee (e.g. for a reason other than a change of the legislation).

When there is an acceleration, all of the principal amount becomes due and a large payment would need to be made by the financing entity to bondholders. If the acceleration occurs after the moratorium period, the amount payable to bondholders would be put through the Clean Energy Adjustment to specified consumers. That could result in a significant increase in consumer bills in a short period of time.

We understand that the Province may not want consumers to experience such a sharp bill increase. We discussed the Dealers whether the Province could be given the option to cure an event of default of a financing entity before it results in acceleration of debt. The Dealers were amenable to providing this option.

When we raised this possibility, the Province indicated it would like to have such an option, and asked us to put together a note describing the terms.

Please find attached a note describing the proposed terms of the option.

Let us know if you have any questions or comments, or if this should be directed to someone else.

Regards,

Les

Leslie Wong
Senior Counsel
Ontario Power Generation Inc.
700 University Avenue, H18 G26.1, Toronto, ON M5G 1X6
T: (416) 592-3110 | E: leslie.wong@opg.com<mailto:leslie.wong@opg.com>

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This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From: John Kim
To: Ronald Kwan
Cc: Usman Zahid
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Thursday, August 31, 2017 7:46:31 AM

For sure, I believe bottleneck is most likely in the guarantee and other stuff we are not leading.

On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks John. Let's keep not being on the critical path or bottleneck.
>
> Ron
>
> On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:
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> > Oh yes, that one. It was a very informal document….as attached.
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> > **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> > **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
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> > Hi John.
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> > I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.
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> > > I don't believe a rationale was drafted….given the state of

reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.

Rational would be very simple. I can even give it over the phone to Anthony.

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Sent: Wednesday, August 30, 2017 5:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
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> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need

a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>

Subject: RE: For Review and Comment:
TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

<!--[if !supportLists]-->● <!--[endif]-->Good point I will make the change.

Are we taking out the term guarantee throughout the document?

<!--[if !supportLists]-->● <!--[endif]-->No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

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<!--[if !supportLists]-->● <!--[endif]-->Hoping energy can follow up on this, maybe in the next round.

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Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

<!--[if !supportLists]-->● <!--[endif]-->Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

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When would the numbers from Energy be finalized ? OPCD review as well ?

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Still need the answer of the 5 questions I sent last week by my Director.

<!--[if !supportLists]-->● <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

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Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner

<Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that

incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a

communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be

incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From: John Kim
To: Ronald Kwan
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Thursday, August 31, 2017 7:44:50 AM

Hi Ron,

I did that yesterday so will ask Usman to follow up. I will give him a call later this morning for one last push to get this done.

Thanks,

John

On Aug 30, 2017, at 9:50 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Hi John,
>
> Yes, please reach out to Jonathan.
>
> Thanks,
> Ron
>
> On Aug 30, 2017, at 9:14 PM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Hi Ron,
> >
> > On this and the IESO Intercept Exclusion Directive, I am wondering if I should reach out to our MO. I did follow up with Jonathan on the alternate signing but have not heard back.
> >
> > Let me know pls.
> >
> > John
> >
> > ---
> >
> > **From:** John Kim
> > **Sent:** August-30-17 8:32 PM
> > **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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> > **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
> >
> > Would you like me to send this out?
> >
> > Sent from my iPhone

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Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna

Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>

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Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>

Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

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Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>

Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of

the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if

you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

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Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

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Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)

Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017 2:21 PM
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Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks

Lindsay

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Cc: Matthew Breadner
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I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

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Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

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Lindsay (MOF)
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Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>

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I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of

Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF)

<Malle.Hanslep@ontario.ca>

Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your

review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or

the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 |
anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From: Ronald Kwan
To: John Kim
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 9:50:56 PM

Hi John,

Yes, please reach out to Jonathan.

Thanks,
Ron

On Aug 30, 2017, at 9:14 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> On this and the IESO Intercept Exclusion Directive, I am wondering if I should reach out to our MO. I did follow up with Jonathan on the alternate signing but have not heard back.
>
> Let me know pls.
>
> John
>
> ---
>
> **From:** John Kim
> **Sent:** August-30-17 8:32 PM
> **To:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Would you like me to send this out?
>
> Sent from my iPhone
>
> On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:
>
> > Thanks John. Let's keep not being on the critical path or bottleneck.
> >
> > Ron
> >
> > On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:
> >
> > > Oh yes, that one. It was a very informal document….as attached.
> > >
> > > I can do up a note very quickly. I think it is a good idea to do

the September date. Just that I believe the bottleneck may occur in other ways still.

From: Ronald Kwan
Sent: Wednesday, August 30, 2017 6:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi John.

I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
>
> Rational would be very simple. I can even give it over the phone to Anthony.
>
> John
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 30, 2017 5:08 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.
>
> I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means

November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should “Authorize”, maybe it’s not “Approve”

<!--[if !supportLists]-->● <!-[endif]-->Good point I will make the change.

Are we taking out the term guarantee throughout the document?

<!--[if !supportLists]-->● <!-[endif]-->No not everywhere. I’m trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We’re referring to the agreement as a “support agreement” which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I’d sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE’s previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

<!--[if !supportLists]-->● <!-[endif]-->Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ?

Interest on debt…MOF ? What process will be used to report it ? How often ?

<!--[if !supportLists]-->● <!--[endif]-->Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

<!--[if !supportLists]-->● <!--[endif]-->Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

<!--[if !supportLists]-->● <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?

<!--[if !supportLists]-->● <!--[endif]-->Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

<!--[if !supportLists]-->● <!--[endif]-->Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

<!--[if !supportLists]-->● <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term

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When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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James Devine
<James.Devine@ofina.on.ca>;
Carlos Yep
<Carlos.Yep@ofina.on.ca>;
Vivienne Skoberne (MOHLTC)
<Vivienne.Skoberne@ontario.ca>;
'stephanie.m.smith@ontario.ca'
<stephanie.m.smith@ontario.ca>;
Deena Padamadan
<Deena.Padamadan@ofina.on.ca>;
Tobias P. Whitfield (MOF)
<Tobias.Whitfield@ontario.ca>;
Hosick, Sarah (TBS)
<Sarah.Hosick@ontario.ca>;
'Montgomery, Kaitlin (MOF)'
<Kaitlin.Montgomery@ontario.ca>;
Matthew Breadner
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Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From: Ronald Kwan
To: John Kim
Cc: Usman Zahid; Deena Padamadan
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 9:23:52 PM

Hi,

I thought Deena had sent it to the DMO, but I may be mis-recalling.

Ron

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> > > **From:** Ronald Kwan
> > > **Sent:** Wednesday, August 30, 2017 6:08 PM
> > > **To:** John Kim <John.Kim@ofina.on.ca>
> > > **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> > > **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
> > >
> > > Hi John.
> > >
> > > I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
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> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
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> Hi,
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>
> Begin forwarded message:
>
> > **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> > **Date:** August 30, 2017 at 5:04:27 PM EDT
> > **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> > **Cc:** Ronald Kwan

<Ronald.Kwan@ofina.on.ca>,
Mike Manning
<Mike.Manning@ofina.on.ca>
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Gadi,

CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.

Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.

I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?

Thanks,
Matt

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Wednesday, August 30, 2017 3:08 PM
To: Anna Strathy
<Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and

Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should “Authorize”, maybe it’s not “Approve”

<!--[if !supportLists]-->● <!--[endif]-->Good point I will make the change.

Are we taking out the term guarantee throughout the document?

<!--[if !supportLists]-->● <!-

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I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- <!--[if !supportLists]-->● <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
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When would the numbers from Energy be finalized ? OPCD review as well ?

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Still need the answer of the 5 questions I sent last week by my Director.

- <!--[if !supportLists]-->● <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the

meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

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When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

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Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a “Provincial Support Agreement” as opposed to “Provincial guarantee” as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]

Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS)

<Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

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Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving

forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through

approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications

strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)'

<Kaitlin.Montgomery@ontario.ca>;
Matthew Breadner
<Matthew.Breadner@ofina.on.ca>

Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

<CQSD Questions.docx>

From: John Kim
To: Ronald Kwan
Cc: Usman Zahid
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 8:32:08 PM

Would you like me to send this out?

Sent from my iPhone

On Aug 30, 2017, at 7:32 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Thanks John. Let's keep not being on the critical path or bottleneck.
>
> Ron
>
> On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Oh yes, that one. It was a very informal document….as attached.
> >
> > I can do up a note very quickly. I think it is a good idea to do the September date. Just that I believe the bottleneck may occur in other ways still.
> >
> > ---
> >
> > **From:** Ronald Kwan
> > **Sent:** Wednesday, August 30, 2017 6:08 PM
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I thought a rationale was drafted. Did it get finalised and sent out?

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> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
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TB/MBC should "Authorize", maybe it's not "Approve"

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Are we taking out the term guarantee throughout the document?

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I pretty much agree with Legal points.

Thanks,
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From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public

Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance,

the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

<CQSD Questions.docx>

From:	Matthew Breadner
To:	Gadi Mayman
Cc:	Anna Strathy; Ronald Kwan; Mike Manning; Ken Kandeepan; John Psinas
Subject:	Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Wednesday, August 30, 2017 8:00:57 PM

Thanks Gadi, I'll make that clear to CQSD tomorrow.

Matt

On Aug 30, 2017, at 6:48 PM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

> You're right in your assumption, Matt, and the Deputy and Associate Deputy of TB are aware, and supportive, of our need to be on the 26th for exactly that reason, so I'm not sure why CQSD thinks our Minister would have to reach out to theirs. I'd be shocked if TB didn't make this a priority item for the 26th meeting, and didn't bump something else if the agenda is too packed..
>
> We were actually originally intending to go to the first TB meeting in September, but Energy decided that we could wait until this meeting to line up with when they are going to TB for their FHP report back. It is absolutely essential that we make this meeting, or OPG may not be able to complete their initial financing for the Trust by calendar year-end (it's already tight) which, I understand, creates a potential accounting issue for the IESO if they still have the entire asset on their books at their year-end.
>
> Thanks,
> Gadi
>
> On Aug 30, 2017, at 5:04 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:
>
> > Hi Gadi,
> >
> > CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
> >
> > Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.
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Thanks,
Matt

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Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

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Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should “Authorize”, maybe it’s not “Approve”

- <!--[if !supportLists]-->● <!--[endif]-->Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- <!--[if !supportLists]-->● <!--[endif]-->No not everywhere. I’m trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We’re referring to the agreement as a “support agreement” which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I’d sent you earlier, so pelase

refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

- Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

- I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

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When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM

To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for

now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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From: Ronald Kwan
To: John Kim
Cc: Usman Zahid
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 7:32:02 PM

Thanks John. Let's keep not being on the critical path or bottleneck.

Ron

On Aug 30, 2017, at 6:28 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Oh yes, that one. It was a very informal document….as attached.
>
> I can do up a note very quickly. I think it is a good idea to do the September date. Just that I believe the bottleneck may occur in other ways still.
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** Wednesday, August 30, 2017 6:08 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi John.
>
> I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.
>
> Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?
>
> Ron
>
> On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:
>
> > Hi Ron,
> >
> > I don’t believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn’t seem so late at the moment.
> >
> > Rational would be very simple. I can even give it over the phone to Anthony.
> >
> > John
> >
> > ---

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To: John Kim <John.Kim@ofina.on.ca>
Cc: Usman Zahid <Usman.Zahid@ofina.on.ca>
Subject: Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi,

I thought a rationale was drafted. Did it get finalised and sent out?

Ron

Begin forwarded message:

> **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Date:** August 30, 2017 at 5:04:27 PM EDT
> **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
> **Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee**
>
> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
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TB/MBC should “Authorize”, maybe it’s not “Approve”

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<!--[if !supportLists]-->● <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?

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Thanks,
Anthony

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From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>

Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

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Sent: Monday, August 28, 2017 2:26 PM
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Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)
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on Provincial Guarantee

Hopefully within the hour.

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To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
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Thanks
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To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]

Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

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Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner

<Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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<CQSD Questions.docx>

From: Gadi Mayman
To: Anna Strathy
Cc: Ronald Kwan; Mike Manning; Matthew Breadner; Ken Kandeepan; John Psinas
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 6:48:28 PM

You're right in your assumption, Matt, and the Deputy and Associate Deputy of TB are aware, and supportive, of our need to be on the 26th for exactly that reason, so I'm not sure why CQSD thinks our Minister would have to reach out to theirs. I'd be shocked if TB didn't make this a priority item for the 26th meeting, and didn't bump something else if the agenda is too packed..

We were actually originally intending to go to the first TB meeting in September, but Energy decided that we could wait until this meeting to line up with when they are going to TB for their FHP report back. It is absolutely essential that we make this meeting, or OPG may not be able to complete their initial financing for the Trust by calendar year-end (it's already tight) which, I understand, creates a potential accounting issue for the IESO if they still have the entire asset on their books at their year-end.

Thanks,
Gadi

On Aug 30, 2017, at 5:04 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Gadi,
>
> CQSD is asking for a justification as to why we're pressuring to proceed with the Sept, 26 TB/MBC meeting.
>
> Apparently a Minister to Minister reach out is required and as there are multiple submissions scheduled for that date Anthony says he'll need a rational to make sure it stays on the agenda. If it doesn't make the Sept 26 meeting it would be bumped to October 17th, which is the next board meeting.
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> I'm not entirely sure what rational to give him. Could we make the case that the financing entity will need to go to market this calendar year, which essentially means November, making an October 17th meeting fairly late?
>
> Thanks,
> Matt
>
> ---
>
> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
> **Sent:** Wednesday, August 30, 2017 3:08 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Subject:** RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Who is the legal lead on it ? Need that info as well.

Also what is the rush to proceed to the Sept. 26 TB/MBC meeting ?

A MO to MO reach out is required and I need to support that with a rational.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 30, 2017 1:49 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks for the review Anthony,

In response to your questions:

TB/MBC should "Authorize", maybe it's not "Approve"

- Good point I will make the change.

Are we taking out the term guarantee throughout the document?

- No not everywhere. I'm trying to be consistent with a deck recently presented to the energy Minister on this topic (see attached). Essentially, We're referring to the agreement as a "support agreement" which *guarantees* the debt under certain conditions. However, I did update it ina few locations compared to the version I'd sent you earlier, so pelase refer to the file attached.

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

- Hoping energy can follow up on this, maybe in the next round.

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt… MOF ? What process will be used to report it ? How often ?

- Ultimately a question for OPCD, again still waiting on feedback.

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

<!--[if !supportLists]-->• <!--[endif]-->Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

<!--[if !supportLists]-->• <!--[endif]-->In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?

<!--[if !supportLists]-->• <!--[endif]-->Regarding the chart showing loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

<!--[if !supportLists]-->• <!--[endif]-->Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

<!--[if !supportLists]-->• <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…

MOF ? What process will be used to report it ? How often ?

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Cc: Matthew Breadner
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Hopefully within the hour.

Matt

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Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
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From: Ronald Kwan
To: John Kim
Cc: Usman Zahid
Subject: Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date: Wednesday, August 30, 2017 6:08:15 PM

Hi John.

I thought you had drafted responses to six earlier questions and that I had done a bit of a markup.

Wouldn't OPG say that October 17 plus the needed ratings finalization and marketing make it too tight to do a bond issue in November before the December slow down?

Ron

On Aug 30, 2017, at 5:36 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> I don't believe a rationale was drafted….given the state of reviewing the term sheet, I wonder if we should leave it open ended. October 17th doesn't seem so late at the moment.
>
> Rational would be very simple. I can even give it over the phone to Anthony.
>
> John
>
> ---
>
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> **To:** John Kim <John.Kim@ofina.on.ca>
> **Cc:** Usman Zahid <Usman.Zahid@ofina.on.ca>
> **Subject:** Fwd: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi,
>
> I thought a rationale was drafted. Did it get finalised and sent out?
>
> Ron
>
> Begin forwarded message:
>
> > **From:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> > **Date:** August 30, 2017 at 5:04:27 PM EDT
> > **To:** Gadi Mayman <Gadi.Mayman@ofina.on.ca>

Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>, Mike Manning <Mike.Manning@ofina.on.ca>
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial Guarantee

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Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

- Not entirely sure, can follow up with energy on this.

I still have the same questions as earlier i.e. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

- In regards to the diagram, there is one in the attached power point presentation, will this be sufficient?
- Regarding the chart showing

loan principal and interest, some staff on our end are having a look at that.

When would the numbers from Energy be finalized ? OPCD review as well ?

<!--[if !supportLists]-->● <!--[endif]-->Still waiting on this information.

Still need the answer of the 5 questions I sent last week by my Director.

<!--[if !supportLists]-->● <!--[endif]-->I've passed them along, but can follow up regarding status.

I'd like to send this version around to the broader group if you think that would be appropriate. I understand your point that senior staff on our end should review first, but most of them are still away on vacation (Gadi, Ron, Ken) and it might be a good idea to keep the ball rolling in the meantime, since as you said we need to keep moving forward to the Sep 26th date.

Let me know what you think.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Tuesday, August 29, 2017 9:14 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

Here are my questions on the submission.

TB/MBC should "Authorize", maybe its not "Approve"

Are we taking out the term guarantee throughout the document ?

How does this request relate to MOE's previous submission(s) on Fair Hydro Plan ? Is it consistent ? What is MOE saying ?

Where is the contingent liability going to reside ? Which Ministry ? Interest on debt…MOF ? What process will be used to report it ? How often ?

Has it been determined that MOE Minister will sign the submission ? If so by when ? It will impact when our DM and Minister would sign.

I still have the same questions as earlier ie. showing a diagram explaining the process, chart showing term of loan principal + interest. etc.

When would the numbers from Energy be finalized ? OPCD review as well ?

Still need the answer of the 5 questions I sent last week by my Director.

We would need to share a copy soon with TBS as there is a large number of submissions moving forward for Sept. 26 TB/MBC date.

I pretty much agree with Legal points.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:59 PM
To: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Sounds good, thanks Anthony.

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:53 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Matt,

I'm going to review tomorrow morning and will provide feedback then.

You may want your Senior Management and Legal review one more time before sending out to a broader audience.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 28, 2017 2:43 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anthony and Lindsay,

Please find attached the latest draft of the TB submission, note we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

This version incorporates line edits made on our end, as well as by MOF legal. However it still contains several comments in the margins pertaining to issues that have not been resolved as of yet (hopefully on the next iteration). Lindsay, as you mentioned if you send something high level for now perhaps we can circle back later?

Anthony, Anna mentioned that you might want to provide thoughts on any new version before I distribute to the broader group, so I was wondering if you had any comments/concerns on this draft before we send something out for a second round?

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:26 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Okay great, I will wait for an updated version then.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:21 PM
To: Tibando, Lindsay (MOF); Reiss, Anthony (MOF)

Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hopefully within the hour.

Matt

From: Tibando, Lindsay (MOF) [mailto:Lindsay.Tibando@ontario.ca]
Sent: Monday, August 28, 2017 2:21 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Matt. Do you have an approximate ETA on when you will have the new version? Perhaps I should wait and see what the input from MOF legal and OFA is before moving forward.

Thanks
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-28-17 2:15 PM
To: Reiss, Anthony (MOF); Tibando, Lindsay (MOF)
Cc: Matthew Breadner
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Lindsay and Anthony,

I'll have another draft ready soon that incorporates some feedback from MOF legal and the OFA, I plan on sharing it with the both of you for feedback before distributing again to the wider group. We have reached out to energy for feedback as well, I understand they're working on it, but in the meantime I plan on proceeding with sending out an updated version before that. And as Anthony stated, yes it is still very much in a draft form.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
Sent: Monday, August 28, 2017 2:01 PM
To: Tibando, Lindsay (MOF) <Lindsay.Tibando@ontario.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>

Cc: Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Thanks Lindsay. You make some great points. Energy should be made aware of this, but I don't have any contact info at this time.

Materials are still very much draft. I would keep the approach high level for now, as we receive more info. then things will be updated.

Anthony

From: Tibando, Lindsay (MOF)
Sent: August 28, 2017 1:56 PM
To: Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>
Cc: Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi all,

Couple questions on this. I'm working on a tailored comms snapshot that will focus on messaging and strategic approach. As you mentioned this is still an early draft, can we expect to see another draft of this come through later? Also is the expectation that MO or CO will be looking at this? I ask because I would like to avoid sending comms materials through approvals more than once. If this is still being developed I can send you something high-level for now and then we can circle back later.

Also wondering if anyone from Energy is looking at this. They will have some KMs around the Fair Hydro Plan/issues mitigation that I would like to draw from so we don't mix messages. Let me know if you have been working with someone at Energy or if I should reach out.

I am still aiming to have something by the 31st but we are short-staffed right now so it may be a day or two later.

Thanks!
Lindsay

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August-18-17 4:12 PM
To: Tibando, Lindsay (MOF)
Cc: Reiss, Anthony (MOF); Matthew Breadner
Subject: FW: For Review and Comment: TB/MBC Submission on Provincial

Guarantee

Hi Lindsay,

Based on the recommendation of Anthony in our Corporate shop (copied), I'm sharing this early draft of a TB Submission for your review. You'll see from the attached email chain that the submission would create a contingent liability that would be disclosed to the public (but not booked/no fiscal impact) in Public Accounts. Anthony suggested that we include a communications strategy in the attached submission, given that the contingent liability will be made public. Could I ask for you expertise in crafting some messaging/strategy?

Thanks, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC

(mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Anna Strathy
To:	Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Anthony Reiss (MGS); Keley Katona (ENERGY); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Usman Zahid
Subject:	Re: For Review and Comment: TB/MBC Submission on Provincial Guarantee
Date:	Thursday, September 07, 2017 11:01:53 AM

Hi Malle, yes I'll circulate a revised draft later today.

Anna

Sent from my iPhone

On Sep 7, 2017, at 10:43 AM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:

> Hi all,
>
> Should the TB submission be marked up to reflect the revised term sheet that is being sent over to OPG?
>
> Malle
>
> ---
>
> **From:** Hanslep, Malle (MOF)
> **Sent:** September 6, 2017 12:57 PM
> **To:** Strathy, Anna (OFA)
> **Cc:** Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
> **Subject:** RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee
>
> Hi Anna,
>
> We are working on a draft OIC which will include some points of decision. If the OIC does not contain a maximum liability, it may be useful to include in the TB submission some commentary on how the two Ministers will limit the Province's exposure in determining the terms and conditions and maximum liability in the guarantee agreement.
>
> We also took a look at the TB submission again and in terms of updating content, should it be updated to reflect the most recent draft that was circulated by John Kim to Steen Hume last evening? This is a clean version of the draft dated August 29, 2017 which reflected MOE/OFA Comments. I don't know what the status of that version is and whether it has been sent to OPG yet.
>
> Thanks.
>
> Malle
>
> ---
>
> **From:** Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]

Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF)
Cc: Mayman, Gadi (OFA); Whitfield, Tobias P. (MOF); Reiss, Anthony (MOF); Katona, Keley (MOF); Tekle, Jonathan (MOF); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Usman Zahid; Skoberne, Vivienne (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC

was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne

Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Gadi Mayman
To:	Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc:	Michael Waterston (MOF)
Subject:	Re: Guarantee
Date:	Saturday, April 22, 2017 10:40:50 AM

That approach makes sense to me.

Thanks,
Gadi

From: Hanslep, Malle (MOF)
Sent: Saturday, April 22, 2017 10:32 AM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Michael Waterston (MOF)
Subject: RE: Guarantee

Hi Gadi,

I was thinking about the approach further and I think it would be best if I write to Len Hatzis (legal director at TBS) and Carolyn (so she is aware) first to let Len know the background that the DM of TBS is in favour of the Minister of Finance signing any required guarantee (although maybe he is well aware of this already) and also MOF/OFA view that we shouldn't exempt generally transactions under the new proposed Act from s. 28.
Then Len can let me know which TBS counsel are working on it as I think that it may be Nick and Paul but don't know for sure and don't know what their involvement on this file has been and I don't think I should send the email to TBS without letting Carolyn know.

]Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April-21-17 8:07 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks, Malle, if you wouldn't mind sharing it with Nick or Paul, that'd be great.

Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Friday, April 21, 2017 7:54:48 PM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Michael Waterston (MOF)
Subject: Re: Guarantee

Hi Gadi

I think that would be fine. I don't know who in particular at TBS legal might be looking at this although it might be Nick Smook and Paul Kaufman

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Gadi Mayman
Sent: Friday, April 21, 2017 19:05
To: Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)

Cc: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks. Just a question, would it make sense to share your response to Energy Legal with TB Legal, as they have an interest in s28 of the FAA, and given that their Deputy and Associate Deputy expresses strong views on the need for the Minister of Finance to hold responsibility for the guarantee?

Gadi

From: Whitfield, Tobias P. (MOF)
Sent: Friday, April 21, 2017 5:23 PM
To: Gadi Mayman; Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Malle Hanslep (MOF); Michael Waterston (MOF)
Subject: FW: Guarantee

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Ministry of Finance
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Phone: 416-325-1456

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Sent: April 21, 2017 5:20 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI)
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Cc: Michael Waterston (MOF)
Subject: Re: Guarantee
Date: Friday, April 21, 2017 8:07:27 PM

Thanks, Malle, if you wouldn't mind sharing it with Nick or Paul, that'd be great.

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Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston

Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Gadi Mayman
To:	Malle Hanslep (MOF); Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	Re: Guarantee
Date:	Friday, April 21, 2017 3:29:03 PM

I'm just finishing up with Scott. Can we start at 3:40?

From: Gadi Mayman
Sent: Friday, April 21, 2017 2:58 PM
To: Malle Hanslep (MOF); Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject: Re: Guarantee

Sure, that timing works for me if someone can set up a call-in number.

Gadi

From: Hanslep, Malle (MOF)
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To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
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Thank you.

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Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:38 PM
To: Hanslep, Malle (MOF); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Manning, Mike (OFA)
Subject: Re: Guarantee

I think that some combination of Mike, Ron and Ken would make sense as the people at the OFA to speak with, so I've copied them on this response.

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Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
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Just resending because I had the wrong email for Anna.

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Sent: April 21, 2017 2:33 PM
To: Mayman, Gadi (OFA); 'anna.strathy@ofina.ca'
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
Subject: FW: Guarantee

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Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

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Sent: April 21, 2017 12:49 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle, can we give you a call around 1:30? In the meantime, I attach a summary prepared by the investment dealers (CIBC, Goldman) advising OPG of the types of guarantees that they are expecting to see as part of this proposal.

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Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
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To:	Malle Hanslep (MOF); Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	Re: Guarantee
Date:	Friday, April 21, 2017 2:58:42 PM

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To: Gadi Mayman; Anna Strathy
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To:	Malle Hanslep (MOF); Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	Re: Guarantee
Date:	Friday, April 21, 2017 2:39:12 PM

This is the guarantee that the Federal government gave to Newfoundland Hydro (Nalcor) for the Muskrat Falls debt issue.

From: Hanslep, Malle (MOF)
Sent: Friday, April 21, 2017 2:37 PM
To: Gadi Mayman; Anna Strathy
Cc: Michael Waterston (MOF); Tobias P. Whitfield (MOF)
Subject: RE: Guarantee

Gadi: Also Carolyn mentioned a Nalcor guarantee which might be similar to what is being requested here?

From: Hanslep, Malle (MOF)
Sent: April 21, 2017 2:36 PM
To: Mayman, Gadi (OFA); Strathy, Anna (OFA)
Cc: Waterston, Michael (MOF); Whitfield, Tobias P. (MOF)
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To:	Malle Hanslep (MOF); Anna Strathy
Cc:	Michael Waterston (MOF); Tobias P. Whitfield (MOF); Ken Kandeepan; Ronald Kwan; Mike Manning
Subject:	Re: Guarantee
Date:	Friday, April 21, 2017 2:37:56 PM

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From:	Hanslep, Malle (MOF)
To:	Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc:	Michael Waterston (MOF)
Subject:	Re: Guarantee
Date:	Saturday, April 22, 2017 12:31:30 PM

Thank you. I have sent the email to Len and Carolyn.

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Gadi Mayman
Sent: Saturday, April 22, 2017 10:40
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Waterston, Michael (MOF)
Subject: Re: Guarantee

That approach makes sense to me.

Thanks,
Gadi

From: Hanslep, Malle (MOF)
Sent: Saturday, April 22, 2017 10:32 AM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Michael Waterston (MOF)
Subject: RE: Guarantee

Hi Gadi,

I was thinking about the approach further and I think it would be best if I write to Len Hatzis (legal director at TBS) and Carolyn (so she is aware) first to let Len know the background that the DM of TBS is in favour of the Minister of Finance signing any required guarantee (although maybe he is well aware of this already) and also MOF/OFA view that we shouldn't exempt generally transactions under the new proposed Act from s. 28.
Then Len can let me know which TBS counsel are working on it as I think that it may be Nick and Paul but don't know for sure and don't know what their involvement on this file has been and I don't think I should send the email to TBS without letting Carolyn know.

]Malle
From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April-21-17 8:07 PM
To: Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks, Malle, if you wouldn't mind sharing it with Nick or Paul, that'd be great.

Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>
Sent: Friday, April 21, 2017 7:54:48 PM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Michael Waterston (MOF)
Subject: Re: Guarantee

Hi Gadi

I think that would be fine. I don't know who in particular at TBS legal might be looking at this although it might be Nick Smook and Paul Kaufman

Malle

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Gadi Mayman
Sent: Friday, April 21, 2017 19:05
To: Whitfield, Tobias P. (MOF); Kwan, Ronald (OFA); Strathy, Anna (OFA); Kandeepan, Ken (OFA); Manning, Mike (OFA)
Cc: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Subject: Re: Guarantee

Thanks. Just a question, would it make sense to share your response to Energy Legal with TB Legal, as they have an interest in s28 of the FAA, and given that their Deputy and Associate Deputy expresses strong views on the need for the Minister of Finance to hold responsibility for the guarantee?

Gadi

From: Whitfield, Tobias P. (MOF)
Sent: Friday, April 21, 2017 5:23 PM
To: Gadi Mayman; Ronald Kwan; Anna Strathy; Ken Kandeepan; Mike Manning
Cc: Malle Hanslep (MOF); Michael Waterston (MOF)
Subject: FW: Guarantee

Please see below our response to Energy Legal on the guarantee provisions, and attached our first draft of a provision for the legislation. We will let you know what the response is from Energy as they consider their draft over the weekend.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>>
Phone: 416-325-1456

From: Whitfield, Tobias P. (MOF)
Sent: April 21, 2017 5:20 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

We have discussed this with the OFA, and we have endeavoured to provide a provision that we think should allow the financial guarantee being contemplated. Please let us know if you think it provides the necessary scope for what would be required to meet the Province's needs. We deleted the existing provision, although if you think that more general contractual authority is needed, something else could be considered. However, we don't think that it is appropriate to have a statutory appropriation for such general indemnity and guarantee provisions.

We would expect that the guarantee would be capped and only provide for the repayment of the principal and interest of the debt securities of the financial asset owner, and that would usually be done in the OIC.

We don't have any experience with performance guarantees. Is there a need for the Minister of Energy to require performance by the LDCs? We were also wondering if Blakes or another party involved in these discussions might have an example of what is being considered.

We also removed the exemption from s. 28 of the FAA. We have discussed this with OFA staff, and given the importance and breadth of this Act and Program, it doesn't seem appropriate to exempt the entire Act from s. 28 of the FAA.

Best
Toby

Tobias Whitfield

Counsel, Legal Services Branch
Ministry of Finance
tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>>
Phone: 416-325-1456

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 21, 2017 2:37 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Malle & Toby – thanks for speaking to us about the Ontario Fair Hydro Plan proposal. I have attached information that we have about the US arrangements. Here is a link to the Florida statute (Duke): : https://urldefense.proofpoint.com/v2/url?u=http-3A__www.leg.state.fl.us_Statutes_index.cfm-3FApp-5Fmode-3DDisplay-5FStatute-26Search-5FString-3D-26URL-3D0300-2D0399_0366_Sections_0366.95.html-5Bleg.state.fl.us-5D&d=DwIF-g&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=tFAAgRQTU0s9wAbu3-s9O6A8WaORM-zWr6qqj-3TfRk&s=GxEbjnHtLM-1g7mwTF12PJe_FGp5ys-wfJS6Hfssvqo&e= <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.leg.state.fl.us_Statutes_index.cfm-3FApp-5Fmode-3DDisplay-5FStatute-26Search-5FString-3D-26URL-3D0300-2D0399_0366_Sections_0366.95.html&d=DwMFAg&c=qG_YucLTZOaBAapRaQkKEgrMWFFI0Cr1_eykjn9FtiQ&r=OdoCVLs6i-6reBTUJh9PAGSfpmSjeJXGKKb9SzvJOII&m=Y_fkJeRoJZD-LzAJEPnXaFZu2UhWImljUPa5aePQXvI&s=1HUfd1nbfvUi59LhqOORa7t3LtNdTaqJrkvGEtCXtac&e=> .

I will share any more information about the guarantee that I see. I also attach the current version of the legislation just in case you received something different.

Carolyn

From: Hanslep, Malle (MOF)
Sent: April-21-17 12:26 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI); Waterston, Michael (MOF)
Cc: Johnson, Paul (ENERGY/MEDEI/MRI); Whitfield, Tobias P. (MOF)
Subject: RE: Guarantee

Hi Carolyn,

Thanks for your email. Would it be possible to arrange a conference call today with yourself or your counsel most knowledgeable on this proposed securitization and transaction so that we can get an understanding of it and how it fits into any proposed authorizing legislation. Unfortunately we are not familiar with the proposed transaction although we have seen some general background information about the proposal. What role would a guarantee of investment dealers have in the transaction? We do have a copy of the legislation that we got via our clients at OFA and they were more engaged in the issue of a future proposed equity injection, but the most recent version that we have seen does not mention guarantees although there seems to be a very general contract authorization section. Of course, we have to generally think about s. 28 as well.

A call today to over the main elements of the proposed transaction and the legislation would be very helpful so that we can get back to Gadi.

Malle

From: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Sent: April 20, 2017 2:33 PM
To: Waterston, Michael (MOF)
Cc: Hanslep, Malle (MOF); Johnson, Paul (ENERGY/MEDEI/MRI)
Subject: RE: Guarantee

Hi Michael & Malle – we will be sending you draft legislation to take a look at. Actual guarantees will follow later.

This relates to the government's Fair Hydro Plan and the promise to reduce rates by 25% by July. We are doing a sort of securitization, for which the legislation will provide a framework. We are contemplating provisions that allow "the Minister" to enter into agreements with respect to transactions contemplated by the legislation. Gadi and DM Angus are of the view that Minister should be MOF, as the agreements are likely to be guarantees to investment dealers. Indemnities for the boards of OPG and IESO will also be required, although we didn't talk about who would sign those.

Happy to answer your questions or walk you through the proposed bill.

Carolyn

From: Waterston, Michael (MOF)
Sent: April-20-17 2:25 PM
To: Calwell, Carolyn (ENERGY/MEDEI/MRI)
Cc: Hanslep, Malle (MOF)
Subject: Guarantee

Hi Carolyn,

Gadi Mayman gave us a heads up that you might be giving us a call about a proposed guarantee that the Minister of Finance may be required to sign in relation to the changes to the global adjustment.

We're happy to discuss this. This afternoon is busy but tomorrow afternoon may work.

Thanks!

Michael

Michael Waterston
Legal Director
Ontario Ministry of the Attorney General
Legal Services Branch, Ministry of Finance
416-326-7918

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From:	Gadi Mayman
To:	Mike Manning; Malle Hanslep (MOF); Michael Waterston (MOF)
Cc:	Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject:	Re: Nalcor: Request for Financing document
Date:	Tuesday, April 25, 2017 10:48:20 AM

It was just agreed at the weekly meeting on rate mitigation that both Ministers would sign the guarantee.

From: Mike Manning
Sent: Tuesday, April 25, 2017 9:45 AM
To: Gadi Mayman; Malle Hanslep (MOF); Michael Waterston (MOF)
Cc: Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Contacted TD & working on it.
Mike

From: Gadi Mayman
Sent: Tuesday, April 25, 2017 9:42 AM
To: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Michael Waterston (MOF) <Michael.Waterston@ontario.ca>
Cc: Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Anna Strathy <Anna.Strathy@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Re: Nalcor: Request for Financing document

Mike, I assume that TD would have the schedules, as they've just submitted their RFP response for the new financing. Given that they're our advisor on the fair hydro plan, could you ask them for copies of the schedules?

Thanks,
Gadi

From: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Sent: Tuesday, April 25, 2017 9:23:01 AM
To: Gadi Mayman; Michael Waterston (MOF)
Cc: Mike Manning; Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Hi Gadi,

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Guarantee Opinion Letters etc.

The one I found was from an earlier transaction in 2012.

Thanks.

Malle

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 21, 2017 2:58 PM
To: Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Manning, Mike (OFA); Kandeepan, Ken (OFA); Strathy, Anna (OFA); Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF)
Subject: Fw: Nalcor: Request for Financing document

I don't know if this is the same document that you just sent, Malle, but this is the description of the Federal Guarantee.

From: Stewart, Rob (FIN) <rob.stewart@canada.ca>
Sent: Wednesday, April 19, 2017 3:43 PM
To: Gadi Mayman
Subject: FW: Nalcor: Request for Financing document

Hi Gadi,

Without spending too much time on it, I gather that the guarantee we have provided simply entails Canada talking over payment of the cashflows on the bonds (see sections 2.2-2.3). Hope this helps.

Nice talking to you.

Rob

Rob Stewart
Associate Deputy Minister | Sous-ministre délégué
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90 Elgin St., Ottawa, Canada K1A 0G5
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From: Moreau, Nicolas (FIN)
Sent: April-19-17 3:01 PM
To: Stewart, Rob (FIN)
Subject: Nalcor: Request for Financing document

Rob,

As requested,

Nic

Nicolas Moreau
Director | Directeur
Funds Management Division | Division de la gestion des fonds
Financial Sector Policy Branch | Direction de la politique du secteur financier
Department of Finance Canada | Ministère des Finances Canada
Ottawa, Canada K1A 0C6
Nicolas.Moreau@canada.ca
Telephone | Téléphone 613-369-5613
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Department of Finance Canada | Ministère des Finances Canada

Canada

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From: Gadi Mayman
To: Malle Hanslep (MOF); Michael Waterston (MOF)
Cc: Mike Manning; Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: Re: Nalcor: Request for Financing document
Date: Tuesday, April 25, 2017 9:41:48 AM

Mike, I assume that TD would have the schedules, as they've just submitted their RFP response for the new financing. Given that they're our advisor on the fair hydro plan, could you ask them for copies of the schedules?

Thanks,
Gadi

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Cc: Mike Manning; Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
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The one I found was from an earlier transaction in 2012.

Thanks.

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Nice talking to you.

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Rob Stewart
Associate Deputy Minister | Sous-ministre délégué
Department of Finance Canada | Ministère des Finances Canada
90 Elgin St., Ottawa, Canada K1A 0G5
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From: Moreau, Nicolas (FIN)
Sent: April-19-17 3:01 PM
To: Stewart, Rob (FIN)
Subject: Nalcor: Request for Financing document

Rob,

As requested,

Nic

Nicolas Moreau
Director | Directeur
Funds Management Division | Division de la gestion des fonds
Financial Sector Policy Branch | Direction de la politique du secteur financier
Department of Finance Canada | Ministère des Finances Canada
Ottawa, Canada K1A 0C6
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From: Gadi Mayman
To: Ronald Kwan
Subject: Re: Nalcor: Request for Financing document
Date: Wednesday, April 19, 2017 4:21:56 PM

So far. Early days.

From: Ronald Kwan
Sent: Wednesday, April 19, 2017 4:12 PM
To: Gadi Mayman
Subject: Re: Nalcor: Request for Financing document

Going well?

From: Gadi Mayman
Sent: April 19, 2017 4:12:03 PM
To: Ronald Kwan
Subject: Re: Nalcor: Request for Financing document

I'm at it right now.

From: Ronald Kwan
Sent: Wednesday, April 19, 2017 4:09 PM
To: Gadi Mayman
Subject: Re: Nalcor: Request for Financing document

BTW Gadi, did the meeting on the FHP with the AG happen?

Ron

From: Gadi Mayman
Sent: April 19, 2017 3:58:18 PM
To: Ken Kandeepan; Mike Manning; Ronald Kwan; Scott Nelms (ENERGY)
Cc: Anna Strathy
Subject: Fw: Nalcor: Request for Financing document

With the attachment.

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Department of Finance Canada Ministère des Finances Canada Canada

From:	Gadi Mayman
To:	Malle Hanslep (MOF); Mike Manning; Michael Waterston (MOF)
Cc:	Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject:	Re: Nalcor: Request for Financing document
Date:	Tuesday, April 25, 2017 11:18:22 AM

Carolyn was at the meeting, and it was Energy's Chief of Staff that proposed this, so she's aware.

From: Hanslep, Malle (MOF)
Sent: Tuesday, April 25, 2017 11:05 AM
To: Gadi Mayman; Mike Manning; Michael Waterston (MOF)
Cc: Ken Kandeepan; Anna Strathy; Ronald Kwan; Tobias P. Whitfield (MOF)
Subject: RE: Nalcor: Request for Financing document

Thanks Gadi. This will impact the drafting of the legislative provision a bit.

From: Gadi Mayman [mailto:Gadi.Mayman@ofina.on.ca]
Sent: April 25, 2017 10:48 AM
To: Manning, Mike (OFA); Hanslep, Malle (MOF); Waterston, Michael (MOF)
Cc: Kandeepan, Ken (OFA); Strathy, Anna (OFA); Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Nalcor: Request for Financing document

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Mike

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Government of Canada | Gouvernement du Canada

Department of Finance Canada | Ministère des Finances Canada

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From:	Gadi Mayman
To:	Veinot, Cindy (TBS)
Cc:	Helen Angus (MOHLTC); Karen Hughes (MGS); Scott Thompson (CAB); Ronald Kwan; Tim Schuurman (MOF); Ken Kandeepan; Nadine Petsche (MOF)
Subject:	Re: OPG debt Guarantee
Date:	Monday, February 27, 2017 12:27:37 PM

Would it be useful if I sent a similar email to Ken Hartwick to the one I just sent to you to make sure it's addressed in their white paper, or would that be unnecessarily confusing and just wait and see if they address it?

Thanks,
Gadi

> On Feb 27, 2017, at 12:25 PM, Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca> wrote:
>
> Hi Gadi. I'm hoping the OPG whitepaper addresses this issue head on. We have asked the question many times.
>
> Cindy
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Gadi Mayman
> Sent: Monday, February 27, 2017 11:10 AM
> To: Veinot, Cindy (TBS)
> Cc: Angus, Helen (TBS); Hughes, Karen (TBS); Thompson, Scott (MOF); Kwan, Ronald (OFA); Schuurman, Tim (MOF); Kandeepan, Ken (OFA); Petsche, Nadine (TBS)
> Subject: OPG debt Guarantee
>
>
>
> Hi Cindy, we all had to rush off to our next meetings following FPC, so we didn't get a chance to have a discussion about why a Provincial guarantee of all of OPG's debt related to the trust isn't a problem for the accounting treatment that we'd need to get to in order to make the GA smoothing plan work, while direct borrowing and on-lending from the Province is if it's greater than 49% of the total borrowing (actually 44% in their current model).
>
>
> From a capital markets, investor and rating agency perspective, the guarantee is extremely likely to be lumped in with the rest of our debt, and would be considered just as much of a provincial obligation as guaranteed debt, particularly in this case where the reason that the guarantee is needed is because investors will demand it in order to protect themselves from legislative amendments by a future government. For that reason, it's hard to justify, from a capital markets or cost perspective, having OPG borrowing in its own name with a government guarantee, so is it possible to revisit the potential accounting treatment and determine whether, now that we've effectively moved to a guaranteed structure, we could just have the Province, through the OFA or OEFC, do all of the borrowing and on-lend to OPG?
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Subject:	Re: OPG debt Guarantee
Date:	Monday, February 27, 2017 12:25:25 PM

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Subject: OPG debt Guarantee

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Gadi

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To:	Gadi Mayman
Cc:	Helen Angus (MOHLTC); Karen Hughes (MGS); Scott Thompson (CAB); Ronald Kwan; Tim Schuurman (MOF); Ken Kandeepan; Nadine Petsche (MOF)
Subject:	Re: OPG debt Guarantee
Date:	Monday, February 27, 2017 12:30:05 PM

Yes.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Gadi Mayman
Sent: Monday, February 27, 2017 12:27 PM
To: Veinot, Cindy (TBS)
Cc: Angus, Helen (TBS); Hughes, Karen (TBS); Thompson, Scott (MOF); Kwan, Ronald (OFA); Schuurman, Tim (MOF); Kandeepan, Ken (OFA); Petsche, Nadine (TBS)
Subject: Re: OPG debt Guarantee

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From:	Gadi Mayman
To:	Tobias P. Whitfield (MOF); Mike Manning; Anna Strathy; Ronald Kwan; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF); David McLean (MOF)
Subject:	Re: Ontario Fair Hydro Plan
Date:	Wednesday, April 26, 2017 4:46:26 PM

I'm surprised on both, especially the second, as it was Energy's Chief of Staff that suggested that the two Ministers would be responsible for the guarantee. As for the first, there was a lengthy discussion on the s28, and Energy was basing their request for exemption on the Hydro One precedent, but the Deputy and Associate Deputy of TB and I rejected that argument given that Hydro One was a sale of shares, or the ownership of the company, while this plan will create debt that could become a liability of the Province.

I've added Dave in the DMO on to make sure I'm not overstepping here, but I think that we should push back very hard that the Ministry of Finance can't accept the exemption from s28 (and you could check with TB Legal Services as I think their direction from their Deputy would be the same).

Gadi

Original Message
From: Whitfield, Tobias P. (MOF)
Sent: Wednesday, April 26, 2017 4:23 PM
To: Mike Manning; Gadi Mayman; Anna Strathy; Ronald Kwan; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF)
Subject: Fw: Ontario Fair Hydro Plan

Please see attached the latest draft of the legislation. My understanding is that there is only room to make small tweaks based on the timeline right now.

Please note that Energy has not removed the exemption from section 28 in this draft. I am not sure if there has been any further discussion on that subject, but I think that if we want to push back on this issue it needs to be communicated as soon as possible.

Also, there is new language around the guarantee, but it does not contemplate the current plan to have both Ministers sign the guarantee. I have let Energy Legal know that this would make sense to change.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456
From: Rehob, James (ENERGY) <James.Rehob@ontario.ca>
Sent: Wednesday, April 26, 2017 3:19 PM
To: Whitfield, Tobias P. (MOF)
Subject: FW: Ontario Fair Hydro Plan

Confidential/Solicitor & Client Privileged

April 26, 2017

Hi, Toby. I am pleased to attach the most recent version of the draft legislation pertaining to the electricity rate reductions and intergenerational cost transfer.

Thanks for your help on all of this, and note that this version does not include amendments to EA ss.89 and 90 (PILS amendments). Those discussions are ongoing between MOF policy, OPG/Tory's and ENERGY is awaiting those discussions to close before finalizing the legislation on these matters.

Best regards,

James

James P. H. Rehob
Senior Counsel
Ministry of the Attorney General
Legal Services Branch
MAG Civil Law Division
Ministry of Energy, Ministry of Economic Development and Growth, Ministry of Research, Innovation and Science, Ministry of Infrastructure, Accessibility Directorate of Ontario
56 Wellesley Street West
Toronto, ON M7A 2E7
Tel: 416-325-6676
Fax: 416-325-1781
james.rehob@ontario.ca<mailto:james.rehob@ontario.ca>

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From:	Gadi Mayman
To:	Ronald Kwan; Tobias P. Whitfield (MOF); Mike Manning; Anna Strathy; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF); David McLean (MOF)
Subject:	Re: Ontario Fair Hydro Plan
Date:	Wednesday, April 26, 2017 5:03:50 PM

I'm at a meeting with Carolyn and she confirmed that both of those changes will be in the next draft. The instructions were sent to Leg Council before yesterday's meeting where this was agreed to.

From: Ronald Kwan
Sent: Wednesday, April 26, 2017 4:54 PM
To: Gadi Mayman; Tobias P. Whitfield (MOF); Mike Manning; Anna Strathy; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF); David McLean (MOF)
Subject: Re: Ontario Fair Hydro Plan

Hi Toby,

Thanks. I have not gone through the draft, but on the guarantee, to clarify, when you say there is new language around the guarantee, but that it does not contemplate both Ministers signing a guarantee, on a quick word search on "guarantee", it seems to say it would just be the Minister of Finance, not both ministers. That would seem okay from an MOF point of view.

Is that right?

Ron

From: Gadi Mayman
Sent: April 26, 2017 4:46:25 PM
To: Tobias P. Whitfield (MOF); Mike Manning; Anna Strathy; Ronald Kwan; John Kim; Malle Hanslep (MOF); Ken Kandeepan; Michael Waterston (MOF); David McLean (MOF)
Subject: Re: Ontario Fair Hydro Plan

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tobias.whitfield@ontario.ca
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James

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From: Ronald Kwan
To: John Kim
Subject: Re: Provincial Guarantee Fair Hydro Plan.docx
Date: Tuesday, August 15, 2017 1:29:37 PM

Had a chance to review?

You should reply to Ken et al before the 1:30

Room

On Aug 15, 2017, at 1:10 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Hi John,
>
> I started a markup.
>
> Ron
>
> ---
>
> **From:** Ken Kandeepan
> **Sent:** August-15-17 11:59
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> **Subject:** Provincial Guarantee Fair Hydro Plan.docx
>
> Hi All
>
> As discussed pls find attached the one-pager, for those on the 14th floor if you have any comments/edits can you pls drop in to my office and let me know so that I can incorporate same in the master version of the note. For the third floor, feel free to provide your comments edits via email.
>
> Thanks
>
> Ken k
>
> <Provincial Guarantee Fair Hydro Plan_CEFD-Markup.docx>

From: John Kim
To: Ronald Kwan
Subject: Re: Provincial Guarantee Fair Hydro Plan.docx
Date: Tuesday, August 15, 2017 1:32:19 PM

I did let him know that comments are coming. He seems fine with that.

On Aug 15, 2017, at 1:29 PM, Ronald Kwan <Ronald.Kwan@ofina.on.ca> wrote:

> Had a chance to review?
>
> You should reply to Ken et al before the 1:30
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> >
> > Thanks
> >
> > Ken k
> >
> > <Provincial Guarantee Fair Hydro Plan_CEFD-Markup.docx>

From: Ronald Kwan
To: Gadi Mayman
Cc: Mike Manning; Carlos Yep; Ken Kandeepan; Scott Nelms (ENERGY); Anna Strathy; Hresa Gavaris
Subject: Re: Provincial Support Agreement
Date: Thursday, July 27, 2017 9:12:36 AM

Hi,

Works for me too.

Ron

On Jul 27, 2017, at 9:09 AM, Gadi Mayman <Gadi.Mayman@ofina.on.ca> wrote:

> OPG wants to meet with us tomorrow to give us the banks' feedback. 1pm works for me if most/many of you are available. I'd like to get the ball rolling on this tomorrow, given that I'm away next week.
>
> Gadi

From: Gadi Mayman
To: Scott Nelms (ENERGY)
Cc: Ken Kandeepan; Anna Strathy; Hresa Gavaris; Mike Manning; Carlos Yep; Ronald Kwan
Subject: Re: Provincial Support Agreement
Date: Thursday, July 27, 2017 10:55:22 AM

Doesn't look like Cindy can make that time either, so there are too many people that should be involved in this discussion with OPG that can't make it. I'd suggest that we leave it in the hands of everyone who is going to be around next week, and then I can weigh in when I get back. I think you're all aware of the firm direction that I've left with the banks and OPG, without much room to move, even though I'm guessing the banks are going to try to come back with a structure that attempts to transfer as much risk on to us as possible.

Gadi

On Jul 27, 2017, at 10:10 AM, Nelms, Scott (MOF) <Scott.Nelms@ontario.ca> wrote:

> I can't tomorrow, but keep going without me. I will catch up next week. I would suggest including Tom McKinlay from Energy, so they are kept in the loop on progress.
>
> ---
>
> **From:** Ken Kandeepan [mailto:Ken.Kandeepan@ofina.on.ca]
> **Sent:** July 27, 2017 9:15 AM
> **To:** Mayman, Gadi (OFA)
> **Cc:** Strathy, Anna (OFA); Gavaris, Hresa (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Kwan, Ronald (OFA); Nelms, Scott (MOF)
> **Subject:** RE: Provincial Support Agreement
>
> Sorry Gadi, I have booked tomorrow off as a vacation day so will not be able to make it.
>
> Ken K
>
> ---
>
> **From:** Gadi Mayman
> **Sent:** Thursday, July 27, 2017 9:09 AM
> **To:** Mike Manning <Mike.Manning@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
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> **Subject:** Provincial Support Agreement
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From:	John Kim
To:	Ken Kandeepan
Cc:	Ronald Kwan; Gadi Mayman; Carlos Yep; James Devine; Malle Hanslep (MOF); Tobias P. Whitfield (MOF); Scott Nelms (ENERGY); Mike Manning
Subject:	Re: Provincial Support Agreement update
Date:	Wednesday, September 06, 2017 6:47:52 PM

Hi Ken,

I think Gadi's email addressed this too but understanding clearly was that we would share drafts with OPG.

John

Sent from my iPhone

On Sep 6, 2017, at 5:09 PM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca> wrote:

> Thanks John, just to be clear what we determined at the meeting yesterday was to ensure that Energy was in fact comfortable with the OFA sharing the latest version of OPG's term sheet for the guarantee **including the comments and edits from Blake's**. These, while not substantially amending the term sheet does make it narrower.
>
> Let us know
>
> Thanks
>
> Ken k
>
> ---
>
> **From:** John Kim
> **Sent:** Wednesday, September 06, 2017 5:02 PM
> **To:** Mike Manning <Mike.Manning@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>
> **Subject:** FW: Provincial Support Agreement update
>
> Hi Mike, Ken,
>
> I had a call with Adrian Nalasco who is acting for Steen. He has indicated that along with Steen, Energy's Deputy is away so it is difficult for him to provide a formal go-ahead to us. I explained to him the time sensitivity and that we would have a discussion with OPG on an informal basis to get their feedback on the latest draft which

MOF Legal and Energy Legal have drafted. I gave him a bit of a background that OPG has had back and forth with us on previous versions of the draft.

With these caveats, Adrian is comfortable with various members of the OFA having discussions with OPG counterparts on the latest draft support agreement.

Thanks,

John

From: John Kim
Sent: Tuesday, September 05, 2017 6:08 PM
To: Steen Hume (CAB) <Steen.Hume@ontario.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Cheryl Carson (ENERGY) <Cheryl.Carson@ontario.ca>
Subject: FW: Provincial Support Agreement update

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>

Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

Together with our outside counsel at Blake's and Energy Legal we have revised the term sheet further.

The attached note, prepared by Energy Legal is a good summary of the issues and where things stand.

I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Ken Kandeepan
To: John Kim
Cc: Ronald Kwan
Subject: Re: Provincial Support Agreement update
Date: Sunday, September 03, 2017 6:43:46 PM

Ok thanks we can dot the i's and cross the t's at the meeting next week.

Ken k

Sent from my iPhone

On Sep 3, 2017, at 10:58 AM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ken,
>
> The focus of my inquiry to Cindy was whether OPCD is okay with the provision of the guarantee per Gadi's ask. And was outlining to Cindy that the draft from legal was narrower than the previous version. She misunderstood my question but the answer is implied is my sense. Mike suggested the meeting to bring everyone to the same page. He had a chat with OPG on Thursday following receiving the draft so it would be good to get his comments too. I may be missing it but not sure I am aware of the meeting with OPG and their advisors.
>
> John
>
> Sent from my iPhone
>
> On Sep 3, 2017, at 10:07 AM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca> wrote:
>
> > Hi John
> >
> > I was under the impression based on our last meeting with OPG and their advisors that the guarantee would be limited to interest and outstanding debt plus and service fees, is the latter what you are referring to in your email.
> >
> > Thanks
> >
> > Ken k
> >
> > ---
> >
> > **From:** John Kim
> > **Sent:** Thursday, August 31, 2017 5:38 PM
> > **To:** 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>
> > **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>;

Gadi Mayman <Gadi.Mayman@ofina.on.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; Mark Donaldson (MOF) <Mark.Donaldson@ontario.ca>
Subject: RE: Provincial Support Agreement update

And the scope of what the agreement would cover – more than payment of principal and interest.

From: John Kim
Sent: Thursday, August 31, 2017 5:35 PM
To: 'Veinot, Cindy (TBS)' <Cindy.Veinot@ontario.ca>
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Sent: August 31, 2017 5:21 PM
To: Veinot, Cindy (TBS)
Cc: Kwan, Ronald (OFA); Kandeepan, Ken (OFA); John Psinas; Mayman, Gadi (OFA); Hosick, Sarah (TBS); Donaldson, Mark (TBS)
Subject: FW: Provincial Support Agreement update

Hi Cindy, Mark,

Ron and Ken are both away this week so I'm sending this at Gadi's request. As you will recall from the implementation meeting this morning, FHP-related bond issues by OPG FE will require a Provincial support to make it financeable.

The attached note by MOF Legal and Energy Legal staff [still draft for discussion purpose] would provide you with a sense of where the term sheet discussions currently are. It is possible that OPG may require more support than envisioned in the attached draft, which would be based on factors such as financeability, etc.

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Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca>
Cc: Bruno Amara <Bruno.Amara@ofina.on.ca>; Elcombe, James (MOF) <James.Elcombe@ontario.ca>
Subject: Provincial Support Agreement update

John,

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I think the next step is to have you and Ron discuss this draft, and prepare to meet with staff at the OFA and Energy once Gadi returns next week and has been briefed on the progress.

Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

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From: John Kim
To: Ken Kandeepan
Cc: Ronald Kwan
Subject: Re: Provincial Support Agreement update
Date: Sunday, September 03, 2017 10:58:06 AM

Hi Ken,

The focus of my inquiry to Cindy was whether OPCD is okay with the provision of the guarantee per Gadi's ask. And was outlining to Cindy that the draft from legal was narrower than the previous version. She misunderstood my question but the answer is implied is my sense. Mike suggested the meeting to bring everyone to the same page. He had a chat with OPG on Thursday following receiving the draft so it would be good to get his comments too. I may be missing it but not sure I am aware of the meeting with OPG and their advisors.

John

Sent from my iPhone

On Sep 3, 2017, at 10:07 AM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca> wrote:

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>
> I was under the impression based on our last meeting with OPG and their advisors that the guarantee would be limited to interest and outstanding debt plus and service fees, is the latter what you are referring to in your email.
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Subject: FW: Provincial Support Agreement update

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Please share as you think makes sense at the OFA, and let me know if you want to discuss further.

Best
Toby

Tobias Whitfield
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Ministry of Finance
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tobias.whitfield@ontario.ca
Phone: 416-325-1456

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To:	Veinot, Cindy (TBS)
Cc:	Ronald Kwan; Ken Kandeepan; John Psinas; Gadi Mayman; Hosick, Sarah (TBS); Mark Donaldson (MOF)
Subject:	Re: Provincial Support Agreement update
Date:	Thursday, August 31, 2017 6:57:52 PM

Ok thanks Cindy. We may have some follow up questions when you return. I understand from Sarah that we can direct questions to Mark in your absence. Have a good vacation.

Sent from my iPhone

On Aug 31, 2017, at 6:46 PM, Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca> wrote:

> The last term sheet I had was dated August 14. The term sheet you attached is narrower than that version. I haven't been involved in any calls on this matter since August 10 and on that date, I couldn't stay for the entire call. Given all that, I'm not much help on your questions as I haven't been privy to any discussion re: narrowing the terms. I did send comments on the Aug 14 term sheet to Scott Nelms who noted that those he flipped to OFA, so assuming you have them (I've attached them here just in case). I agree with the narrowing as I had concerns with some of the language in the August 14th document.
>
> Cindy
>
> ---
>
> **From:** John Kim [mailto:John.Kim@ofina.on.ca]
> **Sent:** August 31, 2017 5:35 PM
> **To:** Veinot, Cindy (TBS)
> **Cc:** Kwan, Ronald (OFA); Kandeepan, Ken (OFA); John Psinas; Mayman, Gadi (OFA); Hosick, Sarah (TBS); Donaldson, Mark (TBS)
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To: John Kim <John.Kim@ofina.on.ca>
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Toby

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<Term Sheet - Provincial Support Agreement - 08-14-2017_OPCD.DOCX>

From:	Whitfield, Tobias P. (MOF)
To:	John Kim; Ken Kandeepan
Cc:	Ronald Kwan; Gadi Mayman; Carlos Yep; James Devine; Malle Hanslep (MOF); Scott Nelms (ENERGY); Mike Manning
Subject:	Re: Provincial Support Agreement update
Date:	Thursday, September 07, 2017 8:01:30 AM

I agree that it makes sense to share it right away.

I just want to make sure that we are sharing the right version, which should be in the version that John shared yesterday afternoon and with "shared clean" in the file name.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456
From: John Kim
Sent: Wednesday, September 6, 2017 6:47 PM
To: Kandeepan, Ken (OFA)
Cc: Kwan, Ronald (OFA); Mayman, Gadi (OFA); Yep, Carlos (OFA); Devine, James (OFA); Hanslep, Malle (MOF); Whitfield, Tobias P. (MOF); Nelms, Scott (MOF); Manning, Mike (OFA)
Subject: Re: Provincial Support Agreement update

Hi Ken,

I think Gadi's email addressed this too but understanding clearly was that we would share drafts with OPG.

John

Sent from my iPhone

On Sep 6, 2017, at 5:09 PM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>> wrote:

Thanks John, just to be clear what we determined at the meeting yesterday was to ensure that Energy was in fact comfortable with the OFA sharing the latest version of OPG's term sheet for the guarantee including the comments and edits from Blake's. These, while not substantially amending the term sheet does make it narrower.

Let us know

Thanks

Ken k

From: John Kim
Sent: Wednesday, September 06, 2017 5:02 PM
To: Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Gadi Mayman

<Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Carlos Yep
<Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine
<James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Malle Hanslep (MOF)
<Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Tobias P. Whitfield (MOF)
<Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Scott Nelms (ENERGY)
<Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>
Subject: FW: Provincial Support Agreement update

Hi Mike, Ken,

I had a call with Adrian Nalasco who is acting for Steen. He has indicated that along with Steen, Energy's Deputy is away so it is difficult for him to provide a formal go-ahead to us. I explained to him the time sensitivity and that we would have a discussion with OPG on an informal basis to get their feedback on the latest draft which MOF Legal and Energy Legal have drafted. I gave him a bit of a background that OPG has had back and forth with us on previous versions of the draft.

With these caveats, Adrian is comfortable with various members of the OFA having discussions with OPG counterparts on the latest draft support agreement.

Thanks,

John

From: John Kim
Sent: Tuesday, September 05, 2017 6:08 PM
To: Steen Hume (CAB) <Steen.Hume@ontario.ca<mailto:Steen.Hume@ontario.ca>>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Malle Hanslep (MOF)
<Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Tobias P. Whitfield (MOF)
<Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Scott Nelms (ENERGY)
<Scott.Nelms@ontario.ca<mailto:Scott.Nelms@ontario.ca>>; Carolyn Calwell (MCSS)
<Carolyn.Calwell@ontario.ca<mailto:Carolyn.Calwell@ontario.ca>>; Gadi Mayman
<Gadi.Mayman@ofina.on.ca<mailto:Gadi.Mayman@ofina.on.ca>>; Cheryl Carson (ENERGY)
<Cheryl.Carson@ontario.ca<mailto:Cheryl.Carson@ontario.ca>>
Subject: FW: Provincial Support Agreement update

Hi Steen,

I'm sending the attached revised draft, non-binding term sheet on behalf of various parts of the OFA that are working on the Provincial guarantee / support agreement to support the OPG financing entity.

As you may have been informed, the attached draft term sheet was drafted jointly by MOF Legal, Energy Legal and Blakes' and is somewhat narrower in scope of the guarantee/support than the version that was provided by OPG in mid-August.

To discuss, we would like to host a meeting tomorrow, if possible, including your team and Energy Legal, MOF Legal and GBED. Also, Capital Markets folks here at the OFA are looking to share the draft term sheet with their counterparts at OPG. Pls. advise if you would have any issue with the sharing of the draft term sheet.

If you could advise of your availability, I would be happy to coordinate on behalf of everyone here at the OFA.

Thanks,

John

From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
Sent: Thursday, August 31, 2017 2:18 PM
To: John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>

Cc: Bruno Amara <Bruno.Amara@ofina.on.ca<mailto:Bruno.Amara@ofina.on.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
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From: Hanslep, Malle (MOF)
To: Ken Kandeepan; Mike Manning
Cc: Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Tobias P. Whitfield (MOF)
Subject: Re: Provincial Support Term Sheet
Date: Wednesday, May 31, 2017 5:33:34 PM

Yes thanks.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Ken Kandeepan
Sent: Wednesday, May 31, 2017 17:18
To: Hanslep, Malle (MOF); Manning, Mike (OFA)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Unless Mike has any major concerns I would strongly advocate for her inclusion.

Thanks

Ken k

-----Original Message-----
From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, May 31, 2017 5:16 PM
To: Mike Manning <Mike.Manning@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: Re: Provincial Support Term Sheet

Just a follow up to our call earlier, does it also make sense to invite Cindy Veinot provincial controller to the proposed meeting since accounting issues are also key.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Hanslep, Malle (MOF)
Sent: Wednesday, May 31, 2017 11:29
To: Manning, Mike (OFA)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

Hi all,

We had a very useful meeting with Blakes (Steven Ashbourne) and Energy Legal this morning. There are quite a few legal issues and concerns to discuss regarding this term sheet as it is overly broad. At this point in the development of the province's role in support, it seems that the development of this type of term sheet is premature given the uncertainties.

At our meeting we discussed, that a useful next step would be to have another meeting with Provincial representatives and Blakes which would include yourselves from the OFA, Energy legal and Energy reps as well as the Provincial Controller and likely TD as well as the Province's financial advisor so that we can all discuss next steps and the best approach.

In the meantime, Toby and I can have an internal call to give you an update on our meeting this morning. Possibly at 3pm today if that works.

Thanks.

Malle

-----Original Message-----
From: Mike Manning [mailto:Mike.Manning@ofina.on.ca]
Sent: May 29, 2017 8:44 PM
To: Hanslep, Malle (MOF)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
>
> Hi Ron
>
> We are meeting on Wednesday morning so after that we could have a follow up
>
> Malle
>
> Sent from my BlackBerry 10 smartphone on the Rogers network.
> From: Ronald Kwan
> Sent: Monday, May 29, 2017 17:17
> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
>
>
> Hi Malle,
>
> Thanks for the list.
>
> Would it be helpful if the group met again to discuss?
>
> When are you meeting with Energy Legal and Blakes?
>
> Ron
>
> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan

<Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
> Subject: RE: Provincial Support Term Sheet
>
> Hi all,
>
> Here is our issues list.
>
> Malle
>
> From: Hanslep, Malle (MOF)
> Sent: May 29, 2017 9:18 AM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
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> Hi all,
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> We are also putting together an issues list for discussion with Energy Legal and Blakes and will share it with you as well.
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> Sent: May 26, 2017 3:16 PM
> To: Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA)
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> Malle Hanslep
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> Ministry of Finance Legal Services Branch
> Telephone: 416-325-1457
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From:	Hanslep, Malle (MOF)
To:	Mike Manning
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	Re: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 5:15:36 PM

Just a follow up to our call earlier, does it also make sense to invite Cindy Veinot provincial controller to the proposed meeting since accounting issues are also key.

Sent from my BlackBerry 10 smartphone on the Rogers network.
Original Message
From: Hanslep, Malle (MOF)
Sent: Wednesday, May 31, 2017 11:29
To: Manning, Mike (OFA)
Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: RE: Provincial Support Term Sheet

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In the meantime, Toby and I can have an internal call to give you an update on our meeting this morning. Possibly at 3pm today if that works.

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Sent: May 29, 2017 8:44 PM
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Cc: Kwan, Ronald (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF)
Subject: Re: Provincial Support Term Sheet

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
Mike

Sent from my iPad

> On May 29, 2017, at 5:33 PM, Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca> wrote:
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> To: Hanslep, Malle (MOF); Manning, Mike (OFA); Devine, James (OFA); Yep, Carlos (OFA); Kandelas, Opal (OFA); Kandeepan, Ken (OFA)
> Cc: Whitfield, Tobias P. (MOF)
> Subject: RE: Provincial Support Term Sheet
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> Sent: May-29-17 12:40
> To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
> Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
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From:	Mike Manning
To:	Malle Hanslep (MOF)
Cc:	Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Ken Kandeepan; Tobias P. Whitfield (MOF)
Subject:	Re: Provincial Support Term Sheet
Date:	Monday, May 29, 2017 8:43:35 PM

Would be useful to get some follow-up. Sorry for not being able to give you more deal information, but it is still lacking at this time.
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Sent from my iPad

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Cc:	Tobias P. Whitfield (MOF)
Subject:	Re: Provincial Support Term Sheet
Date:	Monday, May 29, 2017 5:33:49 PM

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Sent: Monday, May 29, 2017 17:17
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Cc: Whitfield, Tobias P. (MOF)
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Thanks for the list.

Would it be helpful if the group met again to discuss?

When are you meeting with Energy Legal and Blakes?

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Sent: May-29-17 12:40
To: Mike Manning <Mike.Manning@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Opal Kandelas <Opal.Kandelas@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>
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From:	Mike Manning
To:	Ken Kandeepan
Cc:	Malle Hanslep (MOF); Ronald Kwan; James Devine; Carlos Yep; Opal Kandelas; Tobias P. Whitfield (MOF)
Subject:	Re: Provincial Support Term Sheet
Date:	Wednesday, May 31, 2017 7:10:23 PM

With you Ken.
Mike

Sent from my iPad

> On May 31, 2017, at 5:18 PM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca> wrote:
>
> Unless Mike has any major concerns I would strongly advocate for her inclusion.
>
> Thanks
>
> Ken k
>
>
>
> -----Original Message-----
> From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
> Sent: Wednesday, May 31, 2017 5:16 PM
> To: Mike Manning <Mike.Manning@ofina.on.ca>
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From:	Anna Strathy
To:	Anthony Reiss (MGS)
Cc:	Tobias P. Whitfield (MOF); Gadi Mayman; Malle Hanslep (MOF); Keley Katona (ENERGY); Hilary Cox (ENE); Mike Manning; Ronald Kwan; Ken Kandeepan; Thouin, Alena (ENERGY); Tom McKinlay (MAG)
Subject:	Re: TB Submission for Change of Law Protection Agreement
Date:	Tuesday, September 12, 2017 3:39:04 PM

Thanks Toby, Anthony. I'll circulate track-change and clean versions this evening as well as an updated deck.

Sent from my iPhone

On Sep 12, 2017, at 3:34 PM, Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca> wrote:

> Thanks Toby!
>
> Hi Anna,
>
> Based on the changes I would require an updated slide deck. We have another TBS analyst who would be taking this forward so would like to give him a copy of the submission once everyone is comfortable that the submission is stable. Still need to make sure that we are consistent with the request to TB/MBC and the minuting at the end.
>
> Thanks,
> Anthony
>
> ---
>
> **From:** Whitfield, Tobias P. (MOF)
> **Sent:** September 12, 2017 2:45 PM
> **To:** Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Strathy, Anna (OFA) <Anna.Strathy@ofina.on.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Manning, Mike (OFA) <Mike.Manning@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Thouin, Alena (ENERGY) <Alena.Thouin@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
> **Subject:** TB Submission for Change of Law Protection Agreement
>
> Please find attached a markup of the TB submission, as well as a revised term sheet and OIC.
>
> The term sheet is as we have discussed further with Blakes, and as revised by them to reflect our discussions. The document has been renamed to a “protection agreement” because the authority and the obligation is not necessarily an assumption of the obligations of a Financing Entity, and is rather the payment of such obligations. I have attached both the clean and blacklined versions.

The OIC draft is an update of the latest version that was circulated, with the notes to draft removed as there were no further comments.

We have marked up the TB submission to reflect the current status of the negotiation of the term sheet and subject to necessary approvals. We have deleted the attached term sheet from the markup so that the revised version can be inserted instead. We also think it makes sense to include the draft OIC in the TB materials.

Please let me know if you have any comments or questions.

Toby

Tobias Whitfield
Counsel, Legal Services Branch
Ministry of Finance
777 Bay Street, 11th Floor
Toronto, ON, M5G 2C8
tobias.whitfield@ontario.ca
Phone: 416-325-1456

From: Ronald Kwan
To: John Kim
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 12:32:49 PM
Attachments: 01 - IESO-OFA - FHP LoC - Intercept Directive v5_Markup2.docx

---

Hi John,

See the attached on the BN.

I have not yet reviewed the draft directive.

Ron

From: John Kim
Sent: August 17, 2017 12:09 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, here you go.

Last two are new comments received today.

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:02 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks John.

Ron

From: John Kim
Sent: August 17, 2017 12:01 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, might have to do with CMD and FTD involvement on the guarantee. I like everyone's involvement on such a difficult and challenging file/request!

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:59 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

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Sent: August 17, 2017 11:50 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim

Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

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Sent: Thursday, August 17, 2017 11:50 AM
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Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

OFA -- IESO ~~FAIR HYDRO PLAN~~ CREDIT FACILITIES~~Y~~
MINISTER OF FINANCE DIRECTIVE TO EXEMPT THE INTERCEPT PROVISION
("INTERCEPT EXEMPTION DIRECTIVE")
REQUIRED UNDER THE OFA'S LENDING POLICY

The Independent Electricity System Operator (IESO) requested a revolving credit facility ("the credit facility") in an amount of up to $2 billion from the Ontario Financing Authority ("OFA") to support its role in the implementation and participation under the *Ontario Fair Hydro Plan Act, 2017* ("OFHP Act"). In the same request, the IESO had requested a reduction to its existing credit facility from the current $975 million to $475 million.

On June 29, 2017, the OFA received a Lending Directive from the Minister of Finance to accommodate the IESO's request.

Per the requirements of the OFA's Lending Policy, the OFA is returning to request a Minister's direction to exempt from the Intercept Provision both the new $2 billion credit facility to support the IESO's role in the Fair Hydro Plan~~current~~ and the reduced $475 million ~~proposed IESO~~ credit facility~~ies from the Intercept Provision~~.

- Note: The Intercept Provision under the OFA's Lending Policy for unsecured lending to a public body requires that, unless exempted by the Minister of Finance [or Treasury Board or Cabinet], the OFA ~~to~~ put in place a provision whereby the OFA is entitled to deduct amounts equal to any amounts the public body fails to pay to the OFA under the loan, from money appropriated by the Legislature for payment to the public body.

RECOMMENDATION

- OFA staff recommend the Minister sign the Intercept Exemption Directive allowing the OFA to provide these credit facilities ~~exempt~~to the IESO without ~~from the~~an Intercept provision under~~of~~ the OFA Lending Policy.

CONSIDERATIONS

- This will enable the IESO fulfil commitments under the OFHP Act as the IESO will have to finance for a short ~~to~~or medium term period the funding shortfalls in the implementation of the Fair Hydro Plan.

  - ~~Note: The Intercept Provision under the OFA's Lending Policy for unsecured lending to a public body requires that, unless exempted by the Minister of Finance [or Treasury Board or Cabinet], the OFA to put in place a provision whereby the OFA is entitled to deduct amounts equal to any amounts the public body fails to pay to the OFA under the loan from money appropriated by the Legislature for payment to the public body.~~

- Under the OFA Lending Policy, the following is provided for:

  "Except where otherwise directed by the Minister of Finance, Treasury Board or Cabinet, and prior to the OFA making any loan to a public body, the OFA will [e]nsure that it has an appropriate intercept in place for the loan."

- The intercept in the OFA Lending Policy includes the following:

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- The public body and its responsible ministry are to agree that the Minister of Finance is entitled to deduct from money appropriated by the Legislature for payment to the public body amounts equal to any amounts that the public body fails to pay to the OFA on account of indebtedness under its loan agreement with the OFA.

- ~~The~~An Intercept Provision would ha~~s~~ve no practical usefulness in the case of the IESO as it receives no operational funding from the Province. While the IESO settlements system for the electricity sector may facilitate the flow of ~~A~~appropriations of the Ministry of Energy ~~for payment to the IESO are for settlement of payments~~ for energy-related programs such as the Ontario Rebate for Electricity Consumers (OREC), the Rural or Remote Rate Protection Program (RRRP), the Ontario Electricity Support Program (OESP) etc., these payments are for the benefit of various electricity consumers. Intercepting these program specific payments, ~~merely facilitated by~~under which the IESO~~,~~ may only be providing a conduit to local distribution companies under the IESO settlement system to provide benefits to ratepayers, in order to recover loan payments would not be in alignment of the intent of the OFA's Lending Policy.

MINISTER'S DIRECTIVE

- The Minister of Finance's Intercept Exemption Directive would authorize the OFA to exempt the two revolving credit facilities to the IESO [per the Minister's Directive signed on June 29, 2017] from the Intercept ~~P~~provision ~~outlined in~~under the OFA Lending Policy ~~from the revolving credit facility to the IESO [per Directive signed on June 29, 2017]~~.

- [The Intercept Exemption Directive would also exempt any lending to the IESO from the OFA, previously authorized and/or subsequently amended, to be exempt from the Intercept Provision.]

FISCAL IMPACT

- There is no expected~~would be a relatively small but positive~~ incremental fiscal impact for the Province from providing an exemption from the intercept provision.~~as a result of the credit facility and the Intercept Exemption Directive is not anticipated to change this.~~
  - ~~The Province receives a small fiscal benefit by adding 25 basis points (i.e., 0.25%) to the Province's cost of funds provided to the IESO under the facility, which should more than offset any administrative cost impact on the OFA and Province.~~
  - ~~The actual amount is expected to be small, as the IESO is expected to make draws for short periods to bridge brief timing differences in cash flows.~~

BACKGROUND

The IESO

- The IESO is a not-for-profit corporate entity established in 1998 by the *Electricity Act, 1998*. It is governed by an independent Board of Directors and its Chair and Directors are appointed by the Province.

COMMERCIALLY SENSITIVE AND CONFIDENTIAL ADVICE TO MINISTER

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Commented [SK81]: This is to ensure both the 2B and 475M credit facilities are covered.

Commented [RK2]: Agreed?

Commented [RK3]: What about saying that as IESO is a consolidated entity, and if there were any amounts to intercept, there would be no incremental fiscal impact of not having an intercept provision?

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- The IESO has full statute-based authority for establishing, monitoring and enforcing reliability standards in the province. All the companies that make up the power system in Ontario must meet the IESO's standards.
- Its fees and licences to operate are set by the Ontario Energy Board and it operates independently of all other participants in the electricity market.

~~The OFA Lending Policy~~

~~[Add some background bullets.]~~
~~The OFA Lending Policy provides for….~~
-

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Electricity Finance Branch / Corporate and Electricity Finance Division
Ontario Financing Authority
August 17, 2017

From:	Ronald Kwan
To:	John Kim
Subject:	Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Thursday, August 17, 2017 12:07:41 PM

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:02 PM
To: John Kim <John.Kim@ofina.on.ca>
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Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 11:50:02 AM
Attachments: TB20 Submission_Provincial Guarantee_v1 (08172017)_Markup.doc

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PROVINCIAL GUARANTEE TO OPG FINANCING ENTITY

Commented [KR(1]: As discussed earlier, presumably the PG part would be part of the Energy TB submission; however, as the Act requires an OIC, should this be drafted in the OIC approval form instead?

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide a guarantee or guarantees to ~~the~~one or more OPG Financing Entit~~y~~ies established to perform under the Ontario Fair hydro Plan Act and such entity or entities~~its~~ prospective debt holders, that, under certain circumstances, the Province would assume the debt obligations of the Financing Entity. The provincial guarantee would protect~~s~~ investors from an adverse change in law or inability to fund in capital markets.

This submission is to request that Treasury Board:

(a) Approve that the Minister of Finance and Minister of Energy provide a provincial guarantee, as contemplated under the Ontario Fair Hydro Plan Act, to one or more~~the~~ OPG Financing Entities~~ty~~ under the terms set out in Appendix;

(b) Note that the ministry of Energy will also be submitting to the Minister of Finance a request ~~will sign~~for approval, under ~~a~~ Section 28 of the Financial Administration Act, contingent liabilities arising from the provision of the guarantee ~~approving a contingent liability equal to the esti~~

Commented [KR(2]: Might want to include in the submission the relevant excerpt from section 5 of the Act.

(3) The Lieutenant Governor in Council may by order,
(a) authorize the Minister and the Minister of Finance, acting together on behalf of the Province,
(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;
(b) specify terms and conditions that must be included in any guarantee or indemnity given by the Minister and the Minister of Finance; and
(c) specify a maximum liability for the guarantee or indemnity.

3. SUMMARY OF FINANCIAL IMPLICATIONS

The following two tables provide a summary of the funding request for the Ministry, by standard account and by program area. Detailed financial information is provided in the Appendices.

$M (except FTEs)

Ministry Summary					
PSAB *	**2006-07**	**2007-08**	**2008-09**	**2009-10**	**Total**
Salaries/Wages					
Employee Benefits					
Transportation & communication					
Services					
Supplies & Equipment					
Total					
Offset (enter as negative number)					
Total net of Offset					
Classified FTEs at March 31					
Unclassified FTEs at March 31					
* If cash implications differ from PSAB, please provide cash numbers in a separate table.					

$Million

Financial Implications by Program Area					
	2006-07	**2007-08**	**2008-09**	**2009-10**	**Total**
Division/Branch					
Division/Branch					
Total					

4. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP), which would lower bills by 25% for a typical residential consumer, starting in the summer of 2017. The OFHP includes the deferral of a portion of the Global Adjustment portion of the cost of electricity. The deferral~~It~~ is built around the principle that the costs incurred to put in place assets for generation and support conservation to move to a clean, reliable system, would last longer than there typical 20-year contract period and would be able to ~~creates~~provide benefits ~~across generations~~for future ratepayers, and that the costs ~~that~~ should be spread more fairly.

To this end, immediate rate relief to eligible ratepayers is provided by spreading the cost of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, enables the implementation of the OFHP. The IESO ~~will~~is able to create a regulatory asset approximately equal to the difference between collections from current ratepayers and payment obligations to generators and conservation. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future Under the ~~OFHP~~Act, a Financing Entity will purchase the regulatory asset, effectively financeing the shortfall in ~~revenues~~current rates not received from the ratepayers.

~~The *Ontario Fair Hydro Plan Act, 2017,* (the Act), which came into effect on June 1, 2017, enables the implementation of the OFHP. The Act provides for the IESO to sell the regulatory asset and the right to recover those deferred amounts from specified consumers in the future~~.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against risk, the debt would not be financeable. OPG is, therefore, requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:

Commented [KR(3]: Might want to rephrase / reorder to when the Act was passed, and specify this is in relation to the GA refinancing portion of the OFHP. (Avoids the proposed type wording.

Commented [KR(4]: Might want to note that this estimate is being updated (and will be as part of Energy's overall report back, putatively.

Commented [KR(5]: You might want to tie into previous Energy submissions, including on the OFHP Act, that had already reported on the need for a PG and the Act then providing for the two Ministers to provide such a PG. There may even be a Minute to reference supporting the PG in concept, with the specifics to be approved via OIC and the Ministers.

- Decisions by the Legislative Assembly, i.e., repeal of the Ontario Fair Hydro Plan Act, 2017, or amendments or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

The guarantee would continue until all obligations of the Financing Entity are fully discharged.

The Ministry of Energy will be reporting back to TB/MBC on September xx.

5. ADMINISTRATIVE IMPACTS:

Commented [KR(6]: Are we going to say this will be managed by existing staff?

6. RISKS:

If the guarantee is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the guarantee is approved, the Government of Ontario takes on a contingent liability. The amount of the liability will increase over the duration of the Fair Hydro Plan and peak at an estimated [$24B to $26B (to be revised as Energy re-estimates)] of debt principal, along with associated interest payments.

In the event the guarantee is triggered, the Province's net debt will increase by an amount equal to the contingent liability at that point in time.

~~Likewise, t~~The Province's interest payments will also increase by amount equal to the weighted average cost of the debt it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense ~~will~~may increase ~~anywhere~~ between [$0.8B and $1.3B] per annum, depending on the interest rate at which the Financing entity will be able to borrow at.

Commented [KR(7]: To be updated based on what Energy revises its estimates of the FHP curve and reports back on.

It is important to note that, if the guarantee is triggered, ~~for~~and the Province assumes the obligation to service and pay down the debt ~~it assumes~~, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the Act continue or not, in some form. ~~as well as minimize the fiscal impact from the associated IOD expense, the other provisions of the Fair Hydro Plan including~~If the payment streams from ratepayers in the Clean Energy Adjustment (CEA) ~~need to~~ continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if determined by a court not to be constitutional) and not replaced by another authorized charge~~. If not~~, the incremental IOD expense would impact~~s~~ the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. OPERATIONAL REQUIREMENTS:

8. COMMUNICATION PLAN

8. BUSINESS CASE:

11. REVENUE IMPACT:

12. PERFORMANCE MEASURES:

14. IMPLEMENTATION PLAN:

15. RECOMMENDATION

a) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix;

b) Note the Minister of Finance will sign a Section 28, approving a contingent liability.

Commented [KR(8]: Recommend repositioning, as noted above.

From: Ronald Kwan
To: John Kim
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date: Thursday, August 17, 2017 7:44:14 PM

Hi John,

Please share. Note that I have not reviewed this draft.

Thanks,
Ron

On Aug 17, 2017, at 7:25 PM, John Kim <John.Kim@ofina.on.ca> wrote:

> Hi Ron,
>
> Pls. see attached.
>
> I can share with Legals folks – qualifying as pending finalization/review.
>
> John
>
> ---
>
> **From:** Ronald Kwan
> **Sent:** August-17-17 12:33 PM
> **To:** John Kim <John.Kim@ofina.on.ca>
> **Subject:** Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
>
> Hi John,
>
> See the attached on the BN.
>
> I have not yet reviewed the draft directive.
>
> Ron
>
> ---
>
> **From:** John Kim
> **Sent:** August 17, 2017 12:09 PM
> **To:** Ronald Kwan
> **Subject:** RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
>
> Sure, here you go.
>
> Last two are new comments received today.

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:08 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I started a markup last night. Would you email it to me, as I can't access it from Frost.

Ron

From: John Kim
Sent: August 17, 2017 12:06 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Ron,

On a related FHP file, could you pls. see if the intercept exemption materials look okay?

I am under some pressure from Legals to provide comments.

Thanks,

John

From: Ronald Kwan
Sent: Thursday, August 17, 2017 12:02 PM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks John.

Ron

From: John Kim
Sent: August 17, 2017 12:01 PM
To: Ronald Kwan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Sure, might have to do with CMD and FTD involvement on the guarantee. I like everyone's involvement on such a difficult and challenging file/request!

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:59 AM
To: John Kim <John.Kim@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi John,

I hope that works for you. Not sure why Anna would have to do this, as she is not really familiar with the file, so she'll need a lot of assistance.

Ron

From: Anna Strathy
Sent: August 17, 2017 11:50 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Thanks very much, Ron.

From: Ronald Kwan
Sent: Thursday, August 17, 2017 11:50 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>
Subject: Re: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna,

Some suggestions, as discussed. It might be better to reframe this under a request for OIC approval.

I will commit that CEFD staff are available to provide further input into such a submission -- (thanks John, et al!).

Ron

From: Anna Strathy
Sent: August 17, 2017 10:25 AM
To: Ronald Kwan; Carlos Yep; James Devine; John Psinas; John Kim
Cc: Ken Kandeepan
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

I have incorporated Ken's comments into the correct template. If you haven't yet started editing the document sent yesterday, please use the attached. I've added some additional background detail that will require review.

If I could please ask for any comments asap that would be much appreciated. I'll be sending to OPCD, Energy and MOF early this afternoon for comment.

From: Ken Kandeepan
Sent: Wednesday, August 16, 2017 2:45 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: RE: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Hi Anna

Sorry I couldn't attend the Management meeting, I wanted to provide my comments and edits before I left, pls let me know if you have any questions. I would also hope that OPG will be able to provide a draft of the guarantee itself that can also be attached.

Finally, you should also reserve a space in the submission for comments from MOF Legal and Stephen Ashbourne.

Thanks

Ken k

From: Anna Strathy
Sent: Wednesday, August 16, 2017 1:49 PM
To: Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Good afternoon,

Please find attached, a draft TB Submission on the Provincial Guarantee, for your review and comment. The Ministry of Energy is expected to bring this submission forward, with a status update on the FHP and input from the OFA. While the TB meeting date is still TBD, Gadi asked that we draft of input to the submission before the end of the week (when Gadi, Ron, and Ken leave on vacation).

Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.

Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

<01 - IESO-OFA - FHP LoC - Intercept Directive v9.docx>

From: Ronald Kwan
To: Anna Strathy
Cc: Ken Kandeepan; John Kim
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Tuesday, September 12, 2017 12:41:21 PM

Hi Anna,

Just a comment.

While I would not expect it in this case, given the size and what the trigger would be, TB sometimes requires submitting ministries to acknowledge finding offsets, should contingent liabilities crystallize.

So, not held by a particular ministry for accounting, but sometimes a Minuted point and ministry responsibility. As stated, though, I would not expect it in this case. Might be good to confirm with the relevant TBS analyst. (Who would that be, and has TBS started drafting an assessment note?)

Ron

On Sep 12, 2017, at 12:34 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Anthony, will make those three updates you've requested. With respect to your question:
>
> *Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.*
>
> Thank you, Ken, for the wording.
>
> ---
>
> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
> **Sent:** Tuesday, September 12, 2017 12:31 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
> **Subject:** RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; He, Gavin (OFA) <Gavin.He@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law

Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support

Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB)

<Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From: Ronald Kwan
To: Ken Kandeepan; Anna Strathy
Cc: John Kim
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions
Date: Tuesday, September 12, 2017 1:13:31 PM

Hi Ken,

Agreed that the submission covers those points. The issue is if TB or TBS would want to identify a ministry as responsible for an offset, in that eventuality. As noted, given the magnitude and nature of the potential triggers, I would not be expecting TB to require an offset (which I read to be CQSD's implied concern on which ministry or ministries would be identified as needing to provide an offset in that eventuality).

Ron

From: Ken Kandeepan
Sent: September 12, 2017 1:06 PM
To: Ronald Kwan; Anna Strathy
Cc: John Kim
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Ron

When you refer to offsets I guess you mean an offset to any fiscal impact that may arise from the crystallization of a liability. Note that the mere crystallization of a liability has no fiscal impact (only impacts net debt) unless its accompanied by an increase in expenses which is usually in the form of an increase to the Province's IOD.

The submission currently addresses this issue by pointing out that the invocation of the guarantee, or as it is now called, the assumption, will impact both net debt and IOD. The submission also goes on to indicate that unless the CEA revenue stream diverts to the Province from the Financing Entity, upon assumption, there will be a fiscal impact from the incremental IOD.

The submission goes on to state that the net effect of the assumption sans the CEA (if that is will of the Government in power at that time) will be the taxpayer taking on a debt burden incurred for the benefit of the ratepayer, with very limited recourse for repayment.

Hope that satisfies your concern, I am meeting with Cindy next week Monday to ensure that both OPCD and the OFA are on the same page re the impact of the assumption.

Thanks

Ken k

From: Ronald Kwan
Sent: Tuesday, September 12, 2017 12:41 PM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>
Subject: Re: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Just a comment.

While I would not expect it in this case, given the size and what the trigger would be, TB sometimes requires submitting ministries to acknowledge finding offsets, should contingent liabilities crystallize.

So, not held by a particular ministry for accounting, but sometimes a Minuted point and ministry responsibility. As stated, though, I would not expect it in this case. Might be good to confirm with the relevant TBS analyst. (Who would that be, and has TBS started drafting an assessment note?)

Ron

On Sep 12, 2017, at 12:34 PM, Anna Strathy <Anna.Strathy@ofina.on.ca> wrote:

> Hi Anthony, will make those three updates you've requested. With respect to your question:
>
> *Contingent liabilities are not held by a particular ministry, rather they are presented in the Notes to the Consolidated Financial Statements in the Public Accounts of the Province as a contingent liability of the Province as a whole.*
>
> Thank you, Ken, for the wording.
>
> ---
>
> **From:** Reiss, Anthony (MOF) [mailto:Anthony.Reiss@ontario.ca]
> **Sent:** Tuesday, September 12, 2017 12:31 PM
> **To:** Anna Strathy <Anna.Strathy@ofina.on.ca>
> **Cc:** Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>;

Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: RE: TB/MBC Submission on Assumption Agreement - recommendations and questions

Hi Anna,

Here are the updates I'm requesting to the submission.

Pg 1 need to be consistent under points (a) and (b) should read always as Minister of Finance and Minister of Energy through the entire document.

Pg 5 Recommendation should read; The Ministry of Finance and Ministry of Energy requests that Treasury Board/Management Board of Cabinet: currently says Approve, I thought we were using "Authorize" same as pg. 1

Also for the minuting, as opposed to referencing an Appendix, we should say under the terms set out under the Change of Law Assumption Agreement, Indicative Term Sheet.

Questions, in the essence of time I will have a couple more questions later today… but,

Who is holding the contingent liability MOE or MOF ?

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 11, 2017 5:05 PM
To: Veinot, Cindy (TBS) <Cindy.Veinot@ontario.ca>; Hume, Steen (ENERGY) <Steen.Hume@ontario.ca>; McKinlay, Tom (ENERGY) <Tom.McKinlay@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; He, Gavin (OFA) <Gavin.He@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Nelms, Scott (MOF) <Scott.Nelms@ontario.ca>; Cox, Hilary (ENERGY) <Hilary.Cox@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a

final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a “Provincial Support Agreement” as opposed to “Provincial guarantee” as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We’re looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We’ll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I’ll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Ken Kandeepan
To:	Tobias P. Whitfield (MOF)
Cc:	Malle Hanslep (MOF); Ronald Kwan; Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim; Elcombe, James (MOF)
Subject:	Re: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 7:09:16 PM

Fine by me

Sent from my iPhone

> On Jun 15, 2017, at 6:37 PM, Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca> wrote:
>
> How about a call at 11:30?
>
> Tobias Whitfield
> Counsel, Legal Services Branch
> Ministry of Finance
> 777 Bay Street, 11th Floor
> Toronto, ON
> M5G 2C8
> tobias.whitfield@ontario.ca
> Phone: 416-325-1456
>
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>
> _____
> From: Hanslep, Malle (MOF)
> Sent: Thursday, June 15, 2017 4:57 PM
> To: Kwan, Ronald (OFA); Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
> Cc: Elcombe, James (MOF)
> Subject: RE: Updated Draft Provincial Support Discussion Document
>
> My only restriction on Monday is that I'm not free between 1 and 2.
>
> From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> Sent: June 15, 2017 4:54 PM
> To: Whitfield, Tobias P. (MOF); Kandeepan, Ken (OFA); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
> Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
> Subject: RE: Updated Draft Provincial Support Discussion Document
>
> I'd be free after 11:30.
>
> Ron
>
> From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
> Sent: June-15-17 16:53
> To: Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Carlos Yep

<Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Opal Kandelas <Opal.Kandelas@ofina.on.ca<mailto:Opal.Kandelas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
> Subject: RE: Updated Draft Provincial Support Discussion Document
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> We have conflicts tomorrow afternoon. Can we schedule something for Monday morning?
>
> Toby
>
> Tobias Whitfield
> Counsel, Legal Services Branch
> Ministry of Finance
> tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
> Phone: 416-325-1456
>
> From: Ronald Kwan [mailto:Ronald.Kwan@ofina.on.ca]
> Sent: June 15, 2017 4:45 PM
> To: Kandeepan, Ken (OFA); Whitfield, Tobias P. (MOF); Manning, Mike (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
> Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
> Subject: RE: Updated Draft Provincial Support Discussion Document
>
> Agreed it would be good to meet to discuss, and 2:30 works for me.
>
> Ron
>
> From: Ken Kandeepan
> Sent: June-15-17 16:44
> To: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca<mailto:Tobias.Whitfield@ontario.ca>>; Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Opal Kandelas <Opal.Kandelas@ofina.on.ca<mailto:Opal.Kandelas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
> Subject: RE: Updated Draft Provincial Support Discussion Document
>
> That makes sense, Mike and I have the OFA Board tomorrow till 2 PM, if everyone is free after that we can perhaps meet at the OFA at 2.30 or teleconference at the same time.
>
> Thanks
>
> Ken k
>
> From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
> Sent: Thursday, June 15, 2017 4:41 PM
> To: Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Opal Kandelas <Opal.Kandelas@ofina.on.ca<mailto:Opal.Kandelas@ofina.on.ca>>; John Kim

<John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
> Subject: RE: Updated Draft Provincial Support Discussion Document
>
> Hi,
>
> I just wanted to follow up on this and see if there is an appetite to discuss this amongst our smaller group at this point. Energy is briefing up on this draft and we probably should meet with them and our outside counsel at Blakes soon to come to a decision about how this draft will be communicated to the other parties to this transaction.
>
> Best
> Toby
>
> Tobias Whitfield
> Counsel, Legal Services Branch
> Ministry of Finance
> tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
> Phone: 416-325-1456
>
> From: Whitfield, Tobias P. (MOF)
> Sent: June 14, 2017 12:47 PM
> To: Manning, Mike (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
> Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
> Subject: Updated Draft Provincial Support Discussion Document
>
> Please find attached a markup of the proposal from OPG regarding the Provincial Support Agreeement.
>
> This markup is the result of discussions between us at MOF Legal, lawyers from Energy Legal and the Province's external counsel at Blakes.
>
> The changes are significant and we would like to get your feedback on our proposed approach. Perhaps we can have a discussion first with this group, and then a broader discussion with the Energy team and Stephen Ashbourne from Blakes.
>
> Please let us know when you have had a chance to review and are available to discuss.
>
> Best
> Toby
>
> Tobias Whitfield
> Counsel, Legal Services Branch
> Ministry of Finance
> 777 Bay Street, 11th Floor
> Toronto, ON, M5G 2C8
> tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
> Phone: 416-325-1456
>
>
> _____
>
> This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	Ronald Kwan
To:	Ken Kandeepan
Cc:	Tobias P. Whitfield (MOF); Malle Hanslep (MOF); Mike Manning; Carlos Yep; James Devine; Opal Kandelas; John Kim; Elcombe, James (MOF)
Subject:	Re: Updated Draft Provincial Support Discussion Document
Date:	Thursday, June 15, 2017 7:12:53 PM

Me too.

Ron

> On Jun 15, 2017, at 7:09 PM, Ken Kandeepan <Ken.Kandeepan@ofina.on.ca> wrote:
>
> Fine by me
>
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>
>> On Jun 15, 2017, at 6:37 PM, Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca> wrote:
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>> This e-mail, including any attachment, was intended for a specific recipient. It may contain information that is confidential or exempt from disclosure, it may have been provided from one government to another in confidence, or it may be subject to privilege, including solicitor-client privilege. Any privilege that exists is not waived. If you are not the intended recipient: (1) do not distribute it to another person or use it for any purpose, and (2) delete it and advise me by return e-mail or telephone of your doing so.
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>> From: Hanslep, Malle (MOF)
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>> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
>> Subject: RE: Updated Draft Provincial Support Discussion Document
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>> We have conflicts tomorrow afternoon. Can we schedule something for Monday morning?
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>> Tobias Whitfield
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>> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
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>> Ken k
>>
>> From: Whitfield, Tobias P. (MOF) [mailto:Tobias.Whitfield@ontario.ca]
>> Sent: Thursday, June 15, 2017 4:41 PM

>> To: Mike Manning <Mike.Manning@ofina.on.ca<mailto:Mike.Manning@ofina.on.ca>>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca<mailto:Ken.Kandeepan@ofina.on.ca>>; Ronald Kwan <Ronald.Kwan@ofina.on.ca<mailto:Ronald.Kwan@ofina.on.ca>>; Carlos Yep <Carlos.Yep@ofina.on.ca<mailto:Carlos.Yep@ofina.on.ca>>; James Devine <James.Devine@ofina.on.ca<mailto:James.Devine@ofina.on.ca>>; Opal Kandelas <Opal.Kandelas@ofina.on.ca<mailto:Opal.Kandelas@ofina.on.ca>>; John Kim <John.Kim@ofina.on.ca<mailto:John.Kim@ofina.on.ca>>
>> Cc: Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca<mailto:Malle.Hanslep@ontario.ca>>; Elcombe, James (MOF) <James.Elcombe@ontario.ca<mailto:James.Elcombe@ontario.ca>>
>> Subject: RE: Updated Draft Provincial Support Discussion Document
>>
>> Hi,
>>
>> I just wanted to follow up on this and see if there is an appetite to discuss this amongst our smaller group at this point. Energy is briefing up on this draft and we probably should meet with them and our outside counsel at Blakes soon to come to a decision about how this draft will be communicated to the other parties to this transaction.
>>
>> Best
>> Toby
>>
>> Tobias Whitfield
>> Counsel, Legal Services Branch
>> Ministry of Finance
>> tobias.whitfield@ontario.ca<mailto:tobias.whitfield@ontario.ca>
>> Phone: 416-325-1456
>>
>> From: Whitfield, Tobias P. (MOF)
>> Sent: June 14, 2017 12:47 PM
>> To: Manning, Mike (OFA); Kandeepan, Ken (OFA); Kwan, Ronald (OFA); Yep, Carlos (OFA); Devine, James (OFA); Kandelas, Opal (OFA); Kim, John (OFA)
>> Cc: Hanslep, Malle (MOF); Elcombe, James (MOF)
>> Subject: Updated Draft Provincial Support Discussion Document
>>
>> Please find attached a markup of the proposal from OPG regarding the Provincial Support Agreeement.
>>
>> This markup is the result of discussions between us at MOF Legal, lawyers from Energy Legal and the Province's external counsel at Blakes.
>>
>> The changes are significant and we would like to get your feedback on our proposed approach. Perhaps we can have a discussion first with this group, and then a broader discussion with the Energy team and Stephen Ashbourne from Blakes.
>>
>> Please let us know when you have had a chance to review and are available to discuss.
>>
>> Best
>> Toby
>>
>> Tobias Whitfield
>> Counsel, Legal Services Branch
>> Ministry of Finance
>> 777 Bay Street, 11th Floor
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>> This message, including any attachments, is meant only for the use of the individual(s) to whom it is intended and may contain information that is privileged/confidential. Any unauthorized use, copying or disclosure is strictly prohibited. If you are not the intended recipient or have received this message in error, please notify us immediately by reply e-mail and permanently delete this message, including any attachments, without reading them, and destroy all copies. Thank you.

From:	Whitfield, Tobias P. (MOF)
To:	Gadi Mayman; Malle Hanslep (MOF); Anna Strathy; Anthony Reiss (MGS); Keley Katona (ENERGY); Hilary Cox (ENE); Mike Manning; Ronald Kwan; Ken Kandeepan; Thouin, Alena (ENERGY); Tom McKinlay (MAG)
Subject:	TB Submission for Change of Law Protection Agreement
Date:	Tuesday, September 12, 2017 2:45:24 PM
Attachments:	TB20 Submission_Provincial Support Agreement_V7-MOF Legal Comments.docx 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.pdf 23148306-v15-Term Sheet - Provincial Support Agreement - Sept. 12.docx OIC - FHP S.5 Draft September 12.doc

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Please find attached a markup of the TB submission, as well as a revised term sheet and OIC.

The term sheet is as we have discussed further with Blakes, and as revised by them to reflect our discussions. The document has been renamed to a “protection agreement” because the authority and the obligation is not necessarily an assumption of the obligations of a Financing Entity, and is rather the payment of such obligations. I have attached both the clean and blacklined versions.

The OIC draft is an update of the latest version that was circulated, with the notes to draft removed as there were no further comments.

We have marked up the TB submission to reflect the current status of the negotiation of the term sheet and subject to necessary approvals. We have deleted the attached term sheet from the markup so that the revised version can be inserted instead. We also think it makes sense to include the draft OIC in the TB materials.

Please let me know if you have any comments or questions.

Toby

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CHANGE OF LAW PROTECTION ~~ASSUMPTION~~ AGREEMENT

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the ~~Change of Law Assumption Agreement ("assumption agreement"),~~proposed arrangements the Province would pay when due amounts in respect of the obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a~~n assumption~~protection agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities ~~under~~ substantially reflecting the terms set out in the Appendix and subject to such revisions that the two ministers acting together may determine;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

~~specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and~~

~~specify a maximum liability for the guarantee or indemnity.~~

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. As part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system). This would be achieved by spreading the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for, or benefit from, the province's multi-billion dollar investments in electricity infrastructure.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. The Ministry of Energy will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the "OFHPA"), which enables GA Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected over four years. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset". The OFHPA provides for the IESO to sell all or a portion of the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the OFHPA, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the OFHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative and judicial risk, the debt would not be financeable. OPG, therefore, has advised that the Government of Ontario provide a change of law ~~assumption~~protection agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would ~~step in and assume~~pay the funding obligations of the Financing Entity.

OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the ~~assumption~~protection agreement to the following circumstances:

- Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the OFHPA or new legislation that adversely affects ability of an ~~the~~OPG Financing Entity to receive amounts relating to its investments interest so that it can pay its funding obligations;
- A court decision that declares the ability of an OPG Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable~~A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable~~; and
- [Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects 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. *Note: this third ~~assumption~~protection event is not included in the current draft of the term sheet agreed to by Ministry of Finance staff; however, OPG is expected to continue to negotiate for its inclusion. It has been included in the TB submission, but may be removed once negotiations are complete, prior to TB/MBC consideration of this item on September 26, 2017*.]

In the event the ~~assumption~~protection agreement is triggered, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as ~~it~~ they come~~s~~ due (without acceleration). The Province may also be required to pay other obligations which may include payments under derivatives agreements and to service providers.

In addition, the Province would also have the option to ~~assume~~ directly replace the OPG Financing Entity~~'s~~ with respect to its outstanding rights obligations and liabilities, but if the Province decided to do so additional authority would be required.~~.~~

The ~~assumption~~protection agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Section 28 of the *Financial Administration Act (FAA), 1990* requires that the Minister of Finance's approval is obtained before a ministry seeks an Order in Council (OIC) ~~before a ministry~~to enter~~s~~ into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance,

together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

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6. RISKS:

If the ~~assumption~~protection agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the ~~assumption~~protection agreement is provided, the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the OFHP and peak at an estimated $24B to $26B of debt (final cost forecasts TBC), including principal and accumulated interest.

In the event the ~~assumption~~protection agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it ~~has assumed~~will be required to make under the ~~guarantee~~protection agreement. In addition there may be additional payments on derivatives agreements and for service providers that the Province will be required to make.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between $0.8B and $1.3B per annum (final cost forecasts TBC), depending on the interest rate at which the Financing Entity will be able to borrow at.

It is important to note that, if the ~~assumption~~protection agreement is triggered, and the Province ~~assumes~~ becomes responsible for the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA continue or not, in some form. If the payment streams from ratepayers via the collection of the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. COMMUNICATION PLAN

Key Messages

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- Ontario's Fair Hydro Plan has resulted in the biggest electricity rate reduction in Ontario's history.
- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we moved forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

8. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a ~~support~~ protection agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities ~~as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under~~ substantially reflecting the terms set out in the Appendix and subject to such revisions that the two ministers acting together may determine;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity.~~;~~

~~specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and~~

~~specify a maximum liability for the guarantee or indemnity.~~

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APPENDIX

Updated Draft to be Attached

Formatted: Centered

~~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~~Provincial Protections and Assurances

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~~Protection Agreement:	A Change of Law ~~Assumption~~Protection 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~~Protection Events:	Any of the following would constitute ~~an Assumption~~a Protection 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~~Protection Agreement or any of the agreements under which Specified Claims arise ~~without the agreement of~~, other than if the Indenture Trustee has confirmed in writing that the affect under such agreements is otherwise acceptable; 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~~Pay Specified Claims:	Upon the occurrence of ~~an Assumption~~a Protection Event, the Indenture Trustee will have the right to require the Obligor to pay the ~~amount of~~ Specified Claims ~~on behalf of~~owing by 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~~Protection 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 to a Beneficiary, the Obligor ~~shall become~~as guarantor shall have rights of subrogation, including becoming 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~~Protection Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law ~~Assumption~~Protection 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~~Protection Agreement applies to such Specified Claim. The Change of Law ~~Assumption~~Protection 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~~Protection 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~~Protection 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~~Protection 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.

Document comparison by Workshare Compare on Tuesday, September 12, 2017 12:27:10 PM

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Style change	
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Moved cell	
Split/Merged cell	
Padding cell	

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Insertions	27
Deletions	28
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	55

Provincial Protections and Assurances

Indicative Term Sheet

Ontario Fair Hydro Plan Act, 2017

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Change of Law Protection Agreement:	A Change of Law Protection 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.
Protection Events:	Any of the following would constitute a Protection 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 Protection Agreement or any of the agreements under which Specified Claims arise, other than if the Indenture Trustee has confirmed in writing that the affect under such agreements is otherwise acceptable; 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 Pay Specified Claims:	Upon the occurrence of a Protection Event, the Indenture Trustee will have the right to require the Obligor to pay the Specified Claims owing by 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 Protection 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 a Specified Claim to a Beneficiary, the Obligor as guarantor shall have rights of subrogation, including becoming 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 Protection Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law Protection 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 Protection Agreement applies to such Specified Claim. The Change of Law Protection 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 Protection 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 Protection 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 Protection 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.

CONFIDENTIAL AND PRIVILEGED DRAFT – September 12, 2017

WHEREAS 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 to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest as described under the Act;

AND WHEREAS pursuant to subsection 22(2) of the Act, Ontario Power Generation Inc. as financial services manager, may establish or cause to be established one or more financing entities (a "Financing Entity") that may incur funding obligations in connection with investment interests**;**

AND WHEREAS it is considered desirable to authorize the Minister of Energy and the Minister of Finance to agree to guarantee or indemnify debts, obligations, securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity;

NOW THEREFORE:

1. Pursuant to subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017*, the Minister of Energy and the Minister of Finance, acting together on behalf of Ontario, are authorized to enter into one or more agreements to guarantee or indemnify the debts, obligations securities or undertakings of a Financing Entity associated with investment interests acquired by a Financing Entity.

2. The Minister of Energy and the Minister of Finance, acting together on behalf of Ontario are authorized to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee and indemnity authorized under paragraph 1 of this Order.

Recommended _____ Concurred _____

Minister of Energy/Minister of Finance Chair of Cabinet

Approved
and Ordered _____ _____

Date Lieutenant Governor

From:	Anna Strathy
To:	Ronald Kwan; Ken Kandeepan; Carlos Yep; James Devine; John Psinas; John Kim
Subject:	TBMBC Submission Provincial Guarantee (OFA) 08162017.doc
Date:	Wednesday, August 16, 2017 1:48:48 PM
Attachments:	TBMBC Submission Provincial Guarantee (OFA) 08162017.doc

Good afternoon,

Please find attached, a draft TB Submission on the Provincial Guarantee, for your review and comment. The Ministry of Energy is expected to bring this submission forward, with a status update on the FHP and input from the OFA. While the TB meeting date is still TBD, Gadi asked that we draft of input to the submission before the end of the week (when Gadi, Ron, and Ken leave on vacation).

Note, this is not the correct template for a TB Submission (I am still waiting on the template from the Ministry), but this is a good proxy for the content that will be required. Furthermore, note, I have not addressed the warehouse or commingling risks, as we will leave those to Energy to resolve and include in the submission.

Your comments by tomorrow noon would be most appreciated so that I can provide to Gadi by eod tomorrow. Please use track changes. I will consolidate all input.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

TREASURY BOARD / MANAGEMENT BOARD OF CABINET
REQUEST ASSESSMENT NOTE

Ministry:	Energy
Meeting Date:	September 12, 2017 (TBC)
Agenda Class:	
Last reviewed by: NA	**Tracking to:** Cabinet (September 13, 2017)

[

SUBMISSION TITLE:	Ontario Fair Hydro Plan Update and Provincial Guarantee

I. DECISION BEFORE THE BOARD

- [Energy item…Receive a report back…]
- Whether the Government of Ontario should provide a guarantee to the OPG Financing Entity and its prospective debt holders, providing that under certain circumstances, the Province would assume the funding obligations of the Financing Entity.

II. RECOMMENDATIONS:

• [Energy item… Receive a report back…]	
• Provide a guarantee to the OPG Financing Entity under the terms set out in Appendix C	*Approve*

III. FINANCIAL SUMMARY

$ Millions	**2013-14**	**2014-15**	**2015-16**
Initiative cost requested	0.0	0.0	0.0
Initiative cost recommended	0.0	0.0	0.0
Recommended program base	0.0	0.0	0.0
Offset Recommended (Specify Ministry/Program)	0.0	0.0	0.0
Total Fiscal Impact	0.0	0.0	0.0

IV. KEY COMMENTS AND CONSIDERATIONS

[Energy item… report back…]

- To purchase the regulatory asset from IESO, the OPG Financing Entity must borrow from the capital markets; however, investors have indicated that without adequate protection against risk, the debt would not be financeable.

- OPG is requesting that the Government of Ontario provide a guarantee to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

- Certain events that would negatively impact holders of Fair Hydro Plan debt would activate the Provincial Guarantee:
  - Decisions by the Legislative Assembly, i.e., repeal of the *Ontario Fair Hydro Plan Act, 2017*, or amendments or new legislation that adversely affect the Financing Entity;
  - A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
  - Changes to the organization, structure or operations of IESO adversely impacting the Financing Entity.

- The Province would take over the obligations of the Financing Entity including principal and interest payments on debt issued to date and any outstanding payments to service providers.

- The guarantee would continue until all obligations of the Financing Entity are fully discharged.

Risks:

- If the guarantee is not approved, the Financing Entity is unlikely to be able to raise sufficient financing from capital markets to purchase the regulatory asset from IESO.

- If the guarantee is approved, the Government of Ontario takes on a contingent liability, equal to the peak accumulated debt, estimated at $24B, and associated interest payments, estimated at [x].. Should the provincial guarantee be triggered by one of the events set out above, the fiscal impact to the Province would be [xxx].

Name of analyst:		**Phone number:**	
Date:		**Log number:**	
Branch / Division:			

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APPENDIX A: PROPOSED MINUTE

i) Approve a provincial guarantee to the OPG Financing Entity under the terms set out in Appendix C.

ii) Note the Minister of Finance will sign a Section 28, approving a contingent liability [xxx]

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FINANCIAL IMPACTS: CHANGES TO EXPENSE AND REVENUE					TABLE B1
		Fiscal Plan Basis			*Appropriations Basis*
$ Millions		**2013-14**	**2014-15**	**2015-16**	**2013-14**
Initiative cost recommended		0.0000	0.0000	0.0000	
Expense changes:					
Operating item	Oper	0.0000	0.0000	0.0000	0.0000
Capital item	Cap	0.0000	0.0000	0.0000	00000
Revenue changes:					
Revenue increase/offset		0.0000	0.0000	0.0000	
Revenue decrease		0.0000	0.0000	0.0000	
Total Fiscal Impact (draw from c-funds)		**0.0000**	**0.0000**	**0.0000**	**0.0000**

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APPENDIX C: SCHEDULES

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.*

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; (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; (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; (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 judgement determines that all or a portion of the Act is *ultra vires* in a way that adversely affects the rights and

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	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.]**
Guarantee:	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

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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

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From:	Anna Strathy
To:	"Cindy.Veinot@ontario.ca"; Steen Hume (CAB); Tom McKinlay (MAG)
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Gavin He; Tobias P. Whitfield (MOF); "Hosick, Sarah (TBS)"; Anthony Reiss (MGS); Malle Hanslep (MOF); Keley Katona (ENERGY); Scott Nelms (ENERGY); Hilary Cox (ENE); Jonathan Tekle (CAB)
Subject:	TB/MBC Submission on Assumption Agreement - CEO Approved
Date:	Monday, September 11, 2017 5:04:47 PM
Attachments:	TB20 Submission_Provincial Support Agreement_V7.pdf

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a "Support Agreement") tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

Ontario Ministry of Finance

Approval Form

Date Prepared (yyyy/mm/dd)	Deputy Minister Office Tracking Number
2017/09/08	
Division	**Branch/Program**
Ontario Financing Authority	
Prepared by (Last Name, First Name)	**Position Title**
Strathy, Anna	Special Policy Advisor and CEO to the OFA

Issue

Authorize that the Minister of Finance and Minister of Energy provide a Change of Law Assumption Agreement, to be authorized by OIC, that under certain circumstances, the Province would take over the obligations of the Financing Entity, established by OPG under the Ontario Fair Hydro Plan Act, including principal and interest payments on debt issued to date and any outstanding payments to service providers.

Approval

Approving Level	Name of Approving Official (Last Name, First Name)	Signature	Date (yyyy/mm/dd)
Director			
Assistant Deputy Minister	Mayman, Gadi		2017/09/11
Associate Deputy Minister			
Deputy Minister Office			
Deputy Minister			
Other Approvals, As Required (Legal Services, Corporate Services, Communications, etc.)			
Legal Director	Waterston, Michael		
CAO/ADM of CQSD			

Comments

Return To (Last Name, First Name)	Telephone Number
Strathy, Anna	ext.
Copy To (Last Name, First Name)	**Telephone Number**
	ext.

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CHANGE OF LAW ASSUMPTION AGREEMENT

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the Ontario Fair Hydro Plan Act, 2017 ("OPG Financing Entities"), that, under certain circumstances as set out in the Change of Law Assumption Agreement ("assumption agreement"), the Province would pay when due amounts in respect of the obligations of the Financing Entity.

This submission is to request that Treasury Board:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide an assumption agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

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3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. As part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system). This would be achieved by spreading the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for, or benefit from, the province's multi-billion dollar investments in electricity infrastructure.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. The Ministry of Energy will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the "OFHPA"), which enables GA Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected over four years. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset". The OFHPA provides for the IESO to sell all or a portion of the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the OFHPA, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the OFHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative and judicial risk, the debt would not be financeable. OPG, therefore, has advised that the Government of Ontario provide a change of law assumption agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would step in and assume the funding obligations of the Financing Entity.

OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the assumption agreement to the following circumstances:

- Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the OFHPA or new legislation that adversely affect the Financing Entity;
- A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable; and
- [Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects 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. *Note: this third assumption event is not included in the current draft of the term sheet agreed to by Ministry of Finance staff; however, OPG is expected to continue to negotiate for its inclusion. It has been included in the TB submission, but may be removed once negotiations are complete, prior to TB/MBC consideration of this item on September 26, 2017*.]

In the event the assumption agreement is triggered, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as it comes due (without acceleration). In addition, the Province would also have the option to assume the Financing Entity's outstanding obligations and liabilities.

The assumption agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Section 28 of the *Financial Administration Act (FAA), 1990* requires that the Minister of Finance's approval is obtained before a ministry seeks an Order in Council (OIC) before a ministry enters into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance, together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the assumption agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the assumption agreement is provided, the Province of Ontario takes on a contingent liability. The amount of the liability would increase over the duration of the OFHP and peak at an estimated $24B to $26B of debt (final cost forecasts TBC), including principal and accumulated interest.

In the event the assumption agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it has assumed under the guarantee.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between $0.8B and $1.3B per annum (final cost forecasts TBC), depending on the interest rate at which the Financing Entity will be able to borrow at.

It is important to note that, if the assumption agreement is triggered, and the Province assumes the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA continue or not, in some form. If the payment streams from ratepayers via the collection of the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. COMMUNICATION PLAN

Key Messages

- Ontario's Fair Hydro Plan has resulted in the biggest electricity rate reduction in Ontario's history.

- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we moved forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

8. RECOMMENDATION

(a) Approve that the Minister of Finance and Minister of Energy provide a support agreement, as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under the terms set out in Appendix;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Energy and the Minister of Finance, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest, and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity;

specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and

specify a maximum liability for the guarantee or indemnity.

DRAFT

APPENDIX

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.

From:	Reiss, Anthony (MOF)
To:	Anna Strathy; Malle Hanslep (MOF)
Cc:	Gadi Mayman; Tobias P. Whitfield (MOF); Keley Katona (ENERGY); Jonathan Tekle (CAB); Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); Smith, Stephanie M. (MOF); Usman Zahid; Vivienne Skoberne (MOHLTC)
Subject:	TB/MBC Submission on Provincial Guarantee MOE role and sign-off
Date:	Wednesday, September 06, 2017 12:42:36 PM

Hi Anna,

I have a few questions as well that could impact the answers you are asking .

Point 1. The submission as its stands is a request under an OIC under FHPA that resides under MOE. The request is for both Ministers points (a) and (b), the Minister from MOE would need to sign the submission, as far as I can see.

I have had no contact with MOE on this submission. There were discussions on how this submission would be brought forward with MOE earlier, the only outcome I am aware was that this would be an MOF led submission. The area within MOF that worked with MOE on this, should provide additional information in regards to point 1 (What has been agreed upon with MOE ?).

Point 2. The MOF DM and Minister briefing are already scheduled for next Tuesday September 12, 2017. We would require a sign-off by the Minister of Energy before the briefing, depending on the answer in point 1.

Thanks,
Anthony

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: September 6, 2017 10:02 AM
To: Hanslep, Malle (MOF) <Malle.Hanslep@ontario.ca>
Cc: Mayman, Gadi (OFA) <Gadi.Mayman@ofina.on.ca>; Whitfield, Tobias P. (MOF) <Tobias.Whitfield@ontario.ca>; Reiss, Anthony (MOF) <Anthony.Reiss@ontario.ca>; Katona, Keley (MOF) <Keley.Katona@ontario.ca>; Tekle, Jonathan (MOF) <Jonathan.Tekle@ontario.ca>; Kwan, Ronald (OFA) <Ronald.Kwan@ofina.on.ca>; Kandeepan, Ken (OFA) <Ken.Kandeepan@ofina.on.ca>; Kim, John (OFA) <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; Devine, James (OFA) <James.Devine@ofina.on.ca>; Yep, Carlos (OFA) <Carlos.Yep@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>; Smith, Stephanie M. (MOF) <Stephanie.M.Smith@ontario.ca>; Usman Zahid <Usman.Zahid@ofina.on.ca>; Skoberne, Vivienne (MOF) <Vivienne.Skoberne@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Malle,

Thank you for this. I've included my responses below in red, and seeking input/confirmation from others (Anthony/Keley/Jonathan) in highlighted text. I've been away the last two weeks so I

apologize if any of my information below is out of date.

I'm also copying the broader group from the OFA here to keep everyone in the loop.

Thanks, Anna

From: Hanslep, Malle (MOF) [mailto:Malle.Hanslep@ontario.ca]
Sent: Wednesday, September 06, 2017 8:31 AM
To: Anna Strathy <Anna.Strathy@ofina.on.ca>
Cc: Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Anna,

At our meeting yesterday there was some discussion of the content and timing of this TB submission. I am wondering whether you have received many comments and whether there is a revised version for review? The text of this August 31st version reflects in part the version of the term sheet that we received from OPG and the revised version that is going back to OPG (attached to John Kim's email yesterday) is a bit different so we may wish to make some updates. I am not sure how the timing of OPG's review of our revisions to the term sheet will work with the timing of the submission since it provides for a draft term sheet to be attached.

I have not received any further input to the version circulated on August 31st. Would you like to point out the necessary edits to the August 31st draft submission to align with the latest term sheet? As we move the submission through approvals, subsequent revisions to the term sheet will need to be highlighted to the TBS analyst (OFA will inform CQSD of these changes who will inform TBS analyst) to be incorporated into the TBS Assessment note. As Ron highlighted in our meeting yesterday, the TBS Assessment note is typically the only material presented to TB Members (as well as the Deputy, Associate Deputy) and it can be updated later in the process, even after the submission is signed off.

Also, I had a few questions regarding the process.

Will the TB20 Submission be submitted by the Minister of Finance only, although the "guarantee" itself must be provided by the Minister of Finance and Minister of Energy acting jointly?

That was my understanding. Asking Anthony/Keley to confirm.

When would the draft of the OIC be attached to the TB20 Submission?

I would think as soon as a draft is ready, it could be attached, and then replaced with a final, signed version.

Does the OIC have to go to LRC or is submitting it to TBC sufficient?

My impression is that TB/MBC would be sufficient, followed by Cabinet the next day. Asking Jonathan to confirm with CO.

Should the OIC be recommended by both Ministers?

That seems to be consistent with the recommendation in the current draft of the submission. Asking Anthony/Keley to confirm.

Section 28 approval and timing of section 28 approval:
Recommendation (c) references that the Ministry of Energy will be submitting a request for s. 28 approval to the Minister of Finance (not sure who drafted that part). Section 28 requires that a ministry obtain the approval of the Minister of Finance (or President of Treasury Board if within the President's area of responsibility for s. 28) before seeking the approval of the LGIC to provide a guarantee or indemnity. Generally, most guarantees we deal with are authorized under FAA s. 22 and the OIC is recommended to Cabinet by the Minister of Finance and the guarantee itself is signed by the Minister. As a result, there is an implied FAA s. 28 approval for this activity since it is the Minister himself who is recommending the OIC and signing the guarantee and therefore the Minister has impliedly also approved it under s. 28.

This particular OIC would authorize both Ministers to sign the guarantee, but since the Minister of Finance would recommend the OIC (either alone or together with the Minister of Energy) and then would also sign the guarantee together with the Minister of Energy, we have to consider whether this is sufficient for s. 28 or whether it would be better if a separate written approval under s. 28 was given. The section 28 issues has been noted by Torys (OPG's counsel in some previous correspondence) so it is important to deal with this clearly, especially since noteholders will be relying on the guarantee and Blakes will have to provide a legal opinion about the validity and enforceability of the guarantee. In cases where other ministries or agencies come forward seeking an OIC to authorize a guarantee or borrowing, the Minister of Finance will approve under s. 28 both the OIC and also the guarantee agreement I believe so we will have to look at the logistics of that.

I see. The point of recommendation (c) was to give our Minister comfort that TB/MBC was aware of the magnitude of this contingent liability before he approved a section 28. I'm inclined to think a separate written approval under s. 28 would be prudent (even if redundant). Is there anyone else that could weigh in on this? Or would you like to first confer with Energy's counsel?

I am sending this email to you since you are coordinating the submission. However please feel free to share it with others to get input. We are happy to discuss it too. Thanks.

Malle

Malle Hanslep
Deputy Director
Ministry of the Attorney General
Ministry of Finance Legal Services Branch
Telephone: 416-325-1457

Notice: This communication may be solicitor/client privileged and contain confidential information intended only for the person(s) to whom it is addressed. If you have received this message in error please notify the writer and permanently delete the message and all attachments. Thank you.

From: Anna Strathy [mailto:Anna.Strathy@ofina.on.ca]
Sent: August 31, 2017 10:44 AM
To: Veinot, Cindy (TBS); Hume, Steen (ENERGY); Katona, Keley (MOF); Hanslep, Malle (MOF); Calwell, Carolyn (ENERGY/MEDEI/MRI); McKinlay, Tom (ENERGY)
Cc: Mayman, Gadi (OFA); Kwan, Ronald (OFA); Kandeepan, Ken (OFA); Kim, John (OFA); John Psinas; Devine, James (OFA); Yep, Carlos (OFA); Skoberne, Vivienne (MOF); Smith, Stephanie M. (MOF); Deena Padamadan; Whitfield, Tobias P. (MOF); Hosick, Sarah (TBS); Montgomery, Kaitlin (MOF); Matthew Breadner; Reiss, Anthony (MOF)
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,
Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>

Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>
Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

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From:	Anna Strathy
To:	"Cindy.Veinot@ontario.ca"; Steen Hume (CAB); Tom McKinlay (MAG); Malle Hanslep (MOF); Scott Nelms (ENERGY); Anthony Reiss (MGS)
Cc:	Gadi Mayman; Ronald Kwan; Ken Kandeepan; John Kim; John Psinas; James Devine; Carlos Yep; Vivienne Skoberne (MOHLTC); "stephanie.m.smith@ontario.ca"; Gavin He; Tobias P. Whitfield (MOF); "Hosick, Sarah (TBS)"; Keley Katona (ENERGY); Hilary Cox (ENE); Jonathan Tekle (CAB)
Subject:	TB/MBC Submission on Provincial Protection Agreement - revised draft
Date:	Tuesday, September 12, 2017 8:44:50 PM
Attachments:	TB20 Submission_Provincial Protection Agreement_V8_clean.pdf TB20 Submission_Provincial Protection Agreement_V8_track change.pdf

Good evening,

Please find attached, a revised draft of the TB submission on the (newly titled) Provincial Protection Agreement, which incorporates input from MOF Corporate and MOF Legal. Both clean and track change versions are attached. Please advise as soon as possible if you have any further comments or edits.

Thank you, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Monday, September 11, 2017 5:05 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Gavin He <Gavin.He@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Scott Nelms (ENERGY) <Scott.Nelms@ontario.ca>; Hilary Cox (ENE) <Hilary.Cox@ontario.ca>; Jonathan Tekle (CAB) <Jonathan.Tekle@ontario.ca>
Subject: TB/MBC Submission on Assumption Agreement - CEO Approved

Good afternoon,

FYI, please find attached, the CEO-approved TB Submission for the Change of Law Assumption Agreement (no longer a “Support Agreement”) tracking to TB/MBC for the Sep 26 meeting. This version incorporates input received from Energy.

We can confirm that both Ministers of Energy and Finance will be asked to sign the TB submission

since both Ministers will recommend the OIC and both will sign the Assumption Agreement.

Please don't hesitate to contact me should you have any questions or comments. This version is tracking for CAO/DM/Minister approval in both Ministries.

Thanks, Anna

--
Anna Strathy
Ontario Financing Authority
416.325.8032 | anna.strathy@ofina.on.ca

From: Anna Strathy
Sent: Thursday, August 31, 2017 10:44 AM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi All,

Please find attached the latest version of the TB submission, which includes some comments in the margins that still need to be addressed. Thanks to everyone who has provided edits so far. I'd like to reiterate that we're still tracking the Sept. 26 TB/MBC meeting, which means we'll have to brief our Minister next week in order to provide a final submission to TBS three weeks before the meeting.

As many of you may already know, we are now calling it a "Provincial Support Agreement" as opposed to "Provincial guarantee" as MOF legal advised this is not a true guarantee as the agreement would be contingent on certain events (whereas a guarantee would not).

Please provide further comments and edits as appropriate. We're looking to have program area and legal sign-off by Wed. Sept. 6.

Thanks,

Matt Breadner on behalf of Anna Strathy

From: Anna Strathy
Sent: Friday, August 18, 2017 4:07 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>; Carolyn Calwell (MCSS) <Carolyn.Calwell@ontario.ca>; Tom McKinlay (MAG) <Tom.McKinlay@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; 'Hosick, Sarah (TBS)' <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>; Anthony Reiss (MGS) <Anthony.Reiss@ontario.ca>
Subject: RE: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Good afternoon,

We are now tracking the Provincial Guarantee to TB/MBC for September 26 as a Ministry of Finance item. We'll need to brief our Minister the first week of September in order to provide a final submission to TBS three weeks before the meeting. Thank you to those that have provided comments on the attached. Further comments and edits would be much appreciated.

I'll be away for the next two weeks, but Matt Breadner will be acting for me and will have access to my email. Matt will be consolidating your input and circulating revised drafts to this group. Please continue to route your comments through my email.

Thank you, Anna

From: Anna Strathy
Sent: Thursday, August 17, 2017 12:52 PM
To: 'Cindy.Veinot@ontario.ca' <Cindy.Veinot@ontario.ca>; Steen Hume (CAB) <Steen.Hume@ontario.ca>; Keley Katona (ENERGY) <Keley.Katona@ontario.ca>; Malle Hanslep (MOF) <Malle.Hanslep@ontario.ca>
Cc: Gadi Mayman <Gadi.Mayman@ofina.on.ca>; Ronald Kwan <Ronald.Kwan@ofina.on.ca>; Ken Kandeepan <Ken.Kandeepan@ofina.on.ca>; John Kim <John.Kim@ofina.on.ca>; John Psinas <John.Psinas@ofina.on.ca>; James Devine <James.Devine@ofina.on.ca>; Carlos Yep <Carlos.Yep@ofina.on.ca>; Vivienne Skoberne (MOHLTC) <Vivienne.Skoberne@ontario.ca>; 'stephanie.m.smith@ontario.ca' <stephanie.m.smith@ontario.ca>; Deena Padamadan <Deena.Padamadan@ofina.on.ca>; Tobias P. Whitfield (MOF) <Tobias.Whitfield@ontario.ca>; Hosick, Sarah (TBS) <Sarah.Hosick@ontario.ca>; 'Montgomery, Kaitlin (MOF)' <Kaitlin.Montgomery@ontario.ca>; Matthew Breadner <Matthew.Breadner@ofina.on.ca>

Subject: For Review and Comment: TB/MBC Submission on Provincial Guarantee

Hi Cindy, Steen, Kelly (for Scott), and Malle,

Attached, for your review and comment, is a draft TB submission for the Provincial Guarantee.

This submission is somewhat premature, as there continue to be discussions about which Ministry might bring this forward (for instance, the Provincial Guarantee piece could be incorporated into a broader report back by the Ministry of Energy) and when this might go to TB/MBC (mid to late September); however, Gadi is on vacation for two weeks starting Monday, so we wanted to get a head start on something that could be moved forward in his absence.

I apologize for the tight timelines, but **we are hoping to have your comments (even preliminary comments) by noon tomorrow**. I expect that subsequent iterations of this submission and/or the TB Assessment Note will be circulated again for your input.

Please don't hesitate to contact me should you have any questions.

Anna

Anna Strathy
Special Policy Advisor to CEO
Ontario Financing Authority
1 Dundas Street West, 14th Floor
416.325.8032 | anna.strathy@ofina.on.ca

CHANGE OF LAW PROTECTION AGREEMENT

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide protection and assurance arrangements in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the *Ontario Fair Hydro Plan Act, 2017* ("OPG Financing Entities"), that, under certain circumstances as set out in the proposed arrangements the Province would pay when due amounts in respect of the obligations of the Financing Entity.

The Ministry of Finance and Ministry of Energy request that Treasury Board/Management Board of Cabinet:

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a protection agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities substantially reflecting the terms set out in the Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two ministers acting together may determine;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* that authorizes the Minister of Finance and the Minister of Energy, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest; and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity.

DRAFT

3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. As part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system). This would be achieved by spreading the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for, or benefit from, the province's multi-billion dollar investments in electricity infrastructure.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. The Ministry of Energy will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the "OFHPA"), which enables GA Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected over four years. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset". The OFHPA provides for the IESO to sell all or a portion of the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the OFHPA, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the OFHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative and judicial risk, the debt would not be financeable. OPG, therefore, has advised that the Government of Ontario provide a change of law protection agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would pay the funding obligations of the Financing Entity.

OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the protection agreement to the following circumstances:

- Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the OFHPA or new legislation that adversely affects the ability of an OPG Financing Entity to receive amounts relating to its investments interest so that it can pay its funding obligations;
- A court decision that declares the ability of an OPG Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable; and
- [Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects 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. *Note: this third protection event is not included in the current draft of the term sheet agreed to by Ministry of Finance staff; however, OPG is expected to continue to negotiate for its inclusion. It has been included in the TB submission, but may be removed once negotiations are complete, prior to TB/MBC consideration of this item on September 26, 2017*.]

In the event the protection agreement is triggered, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as they come due (without acceleration). The Province may also be required to pay other obligations which may include payments under derivatives agreements and to service providers.

In addition, the Province would also have the option to directly replace the OPG Financing Entity with respect to its outstanding rights obligations and liabilities, but if the Province decided to do so additional authority would be required.

The protection agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Section 28 of the *Financial Administration Act (FAA), 1990* requires that the Minister of Finance's approval is obtained before a ministry seeks an Order in Council (OIC) to enter into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance, together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

6. RISKS:

If the protection agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the protection agreement is provided, the Province takes on a contingent liability. The amount of the liability would increase over the duration of the OFHP and peak at an estimated $24B to $26B of debt (final cost forecasts TBC), including principal and accumulated interest.

In the event the protection agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it will be required to make under the protection agreement. In addition there may be additional payments on derivatives agreements and for service providers that the Province will be required to make.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between $0.8B and $1.3B per annum (final cost forecasts TBC), depending on the interest rate at which the Financing Entity will be able to borrow at.

It is important to note that, if the protection agreement is triggered, and the Province becomes responsible for the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA continue in some form, or not. If the payment streams from ratepayers via the collection of the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. COMMUNICATION PLAN

Key Messages

- Ontario's Fair Hydro Plan has resulted in the biggest electricity rate reduction in Ontario's history.
- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we moved forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

8. RECOMMENDATION

The Ministry of Finance and Ministry of Energy request that Treasury Board/Management Board of Cabinet:

(a) Authorize that the Minister of Finance and Minister of Energy provide a protection agreement, to be authorized by Order in Council under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities substantially reflecting the terms set out in the Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two ministers acting together may determine;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of Finance and the Minister of Energy, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest; and
(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity.

APPENDIX

Provincial Protections and Assurances

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 Protection Agreement:	A Change of Law Protection 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.
Protection Events:	Any of the following would constitute a Protection 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 Protection Agreement or any of the agreements under which Specified Claims arise, other than if the Indenture Trustee has confirmed in writing that the affect under such agreements is otherwise acceptable; 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 Pay Specified Claims:	Upon the occurrence of a Protection Event, the Indenture Trustee will have the right to require the Obligor to pay the Specified Claims owing by 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 Protection 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 a Specified Claim to a Beneficiary, the Obligor as guarantor shall have rights of subrogation, including becoming 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 Protection Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law Protection 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 Protection Agreement applies to such Specified Claim. The Change of Law Protection 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 Protection 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 Protection 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 Protection 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 PROTECTION ~~ASSUMPTION~~ AGREEMENT

1. PROGRAM/BRANCH: Ontario Financing Authority

2. SUMMARY OF REQUEST:

Provide protection and assurance arrangements ~~-~~in respect of debts, obligations, securities or undertakings associated with investment interests acquired by one or more financing entities established by Ontario Power Generation Inc. pursuant to s. 22 of the *Ontario Fair Hydro Plan Act, 2017* ("OPG Financing Entities"), that, under certain circumstances as set out in the ~~Change of Law Assumption Agreement ("assumption agreement"),~~proposed arrangements the Province would pay when due amounts in respect of the obligations of the Financing Entity.

The Ministry of Finance and Ministry of Energy request that Treasury Board/Management Board of Cabinet:~~This submission is to request that Treasury Board:~~

(a) Authorize that the Minister of Finance and Minister of Energy, on behalf of Ontario, provide a~~n assumption~~protection agreement, to be authorized by Order in Council ~~-~~under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities ~~under~~ substantially reflecting the terms set out in the ~~Appendix~~ Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two ministers acting together may determine;

(b) Recommend to Cabinet an Order in Council, to be made under subsection 5(3) of the *Ontario Fair Hydro Plan Act, 2017* that authorizes the Minister of ~~Energy~~ Finance and the Minister of ~~Finance~~Energy, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest~~;~~, and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity~~.~~;

~~specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and~~

~~specify a maximum liability for the guarantee or indemnity.~~

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3. BACKGROUND:

On March 2, 2017, the government announced its proposed Ontario's Fair Hydro Plan (OFHP) to lower electricity bills by 25%, on average, for a typical residential consumer, and holding increases to the rate of inflation for four years. As part of OFHP, it was announced that a portion of the Global Adjustment (GA) would be refinanced in order to fairly allocate costs across present and future generations of electricity consumers with respect to investments made to decarbonize (i.e., phase-out coal) and modernize Ontario's electricity system (i.e., build and maintain a reliable electricity system). This would be achieved by spreading the cost of electricity investments so that they are shared proportionately by future consumers who cause a need for, or benefit from, the province's multi-billion dollar investments in electricity infrastructure.

To this end, immediate rate relief to eligible ratepayers is provided by deferring and spreading the cost recovery of electricity investments over a longer period of time. Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction would be about $2.5 billion per year on average over the first ten years. The Ministry of Energy will report back to TB/MBC in fall 2017-18 with an update on out-year projections following analysis on rate applications before the Ontario Energy Board.

Under the *Ontario Fair Hydro Plan Act, 2017,* (the "OFHPA"), which enables GA Refinancing, the Independent Electricity System Operator (IESO) will have a funding gap resulting from the reduction in amounts collected over four years. The legislation enables IESO to record the under-collection of GA in a variance account, and deems this under-collected amount to be a "Regulatory Asset". The OFHPA provides for the IESO to sell all or a portion of the regulatory asset; i.e., the right to recover those deferred amounts from specified consumers in the future. Under the OFHPA, a Financing Entity (i.e., an entity established or caused to be established by OPG as the Financial Services Manager under the OFHPA) will purchase the regulatory asset, effectively financing the shortfall in current rates not received from the ratepayers.

To purchase the regulatory asset from IESO, the Financing Entity must borrow a portion of the funds (planned to be 51%, with other financing to come from OPG and, indirectly, the Province) from the capital markets; however, OPG's financial advisors have indicated that without adequate protection against legislative and judicial risk, the debt would not be financeable. OPG, therefore, has advised that the Government of Ontario provide a change of law ~~assumption~~protection agreement to the Financing Entity and prospective debt holders such that, under certain circumstances, the Province would ~~step-in and assume~~pay the funding obligations of the Financing Entity.

OFA, the Ministry of Finance and external advisors – consistent with OPG advice – recommend limiting activation of the ~~assumption~~protection agreement to the following circumstances:

- Actions of the Legislative Assembly that undermine the financing arrangement, i.e., repeal or amendment of the OFHPA or new legislation that adversely affects the ability of an ~~the~~OPG Financing Entity to receive amounts relating to its investments interest so that it can pay its funding obligations;
- A court decision that declares the ability of an OPG Financing Entity to receive amounts on its investment interest so it can pay its funding obligations to be invalid or unenforceable~~A court decision that declares any funding obligations of the Financing Entity to be invalid or unenforceable~~; and
- [Changes to the organization, structure or operations of IESO or a change in the electricity market structure or operations that adversely affects 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. *Note: this third ~~assumption~~protection event is not included in the current draft of the term sheet agreed to by Ministry of Finance staff; however, OPG is expected to continue to negotiate for its inclusion. It has been included in the TB submission, but may be removed once negotiations are complete, prior to TB/MBC consideration of this item on September 26, 2017*.]

In the event the ~~assumption~~protection agreement is triggered, the Province would be required to pay principal and interest on debt issued by the Financing Entity and other obligations of the Financing Entity as ~~it~~ they come~~s~~ due (without acceleration). The Province may also be required to pay other obligations which may include payments under derivatives agreements and to service providers.

In addition, the Province would also have the option to ~~assume~~ directly replace the OPG Financing Entity~~'s~~ with respect to its outstanding rights obligations and liabilities, but if the Province decided to do so additional authority would be required.~~.~~

The ~~assumption~~protection agreement would continue until all guaranteed obligations of the Financing Entity are fully discharged.

Section 28 of the *Financial Administration Act (FAA), 1990* requires that the Minister of Finance's approval is obtained before a ministry seeks an Order in

Council (OIC) ~~before a ministry~~to enter~~s~~ into a guarantee or indemnity that would increase the contingent liabilities of Ontario. In this case, the Minister of Finance, together with the Minister of Energy, is recommending the OIC to Cabinet and will, acting together with the Minister of Energy, determine the terms and conditions of and execute the proposed guarantee/indemnity in accordance with the OIC, if approved.

5. ADMINISTRATIVE IMPACTS:

To be managed by existing staff.

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6. RISKS:

If the ~~assumption~~protection agreement is not approved, the Financing Entity would either be unable to raise sufficient financing from capital markets to purchase the regulatory asset from IESO or the cost of the financing will be potentially materially greater than it otherwise would be.

If the ~~assumption~~protection agreement is provided, the Province ~~of Ontario~~ takes on a contingent liability. The amount of the liability would increase over the duration of the OFHP and peak at an estimated $24B to $26B of debt (final cost forecasts TBC), including principal and accumulated interest.

In the event the ~~assumption~~protection agreement is triggered, the Province's net debt would be expected to increase by an amount equal to the contingent liability for the debt outstanding at that point in time. The Province's interest payments will also increase by the debt interest servicing of the debt payment obligations it ~~has assumed~~will be required to make under the ~~guarantee~~protection agreement. In addition there may be additional payments on derivatives agreements and for service providers that the Province will be required to make.

While it is difficult to estimate the actual impact to the Province's interest on debt (IOD) expense, the worst case scenario would be the Province assuming the debt at its peak. If so, IOD expense may increase between $0.8B and $1.3B per annum (final cost forecasts TBC), depending on the interest rate at which the Financing Entity will be able to borrow at.

It is important to note that, if the ~~assumption~~protection agreement is triggered, and the Province ~~assumes~~ becomes responsible for the obligation to service and pay down the debt, that the magnitude of the fiscal impact (IOD expense) will depend on whether or not some portions of the OFHPA continue ~~or not,~~ in some form, or not. If the payment streams from ratepayers via the collection of the Clean Energy Adjustment (CEA) continue, this would offset the debt and interest payments; however, if the CEA is ended (e.g., if the OFHPA is repealed or is determined by a court not to be constitutional) and not replaced by another authorized charge, the incremental IOD expense would impact the Government's fiscal plan and likely takes away fiscal resources that can be otherwise used. Also, debt incurred to benefit the ratepayer becomes the responsibility of the taxpayer.

7. COMMUNICATION PLAN

Key Messages

- Ontario's Fair Hydro Plan has resulted in the biggest electricity rate reduction in Ontario's history.
- We have heard from Ontarians across the province that the price of electricity has risen too quickly, which is why we moved forward with a plan to ensure the costs are shared more evenly over the years ahead.
- The government is following through on its commitment to balance the books as announced in its 2017 Budget, while continuing to make investments in priority areas such as electricity price relief.

Strategic Approach

- Low-profile, reactive and targeted to industry stakeholders and government employees as necessary. Reactive messaging contingent upon legislative changes only with back-pocket QAs to support as needed.
- Communications support will continue to be led by the Ministry of Energy.

8. RECOMMENDATION

The Ministry of Finance and Ministry of Energy request that Treasury Board/Management Board of Cabinet:

(a) ~~Approve~~ Authorize that the Minister of Finance and Minister of Energy provide a ~~support~~ protection agreement, to be authorized by Order in Council ~~-~~under the *Ontario Fair Hydro Plan Act, 2017* in respect of the debts, obligations, securities and undertakings of one or more OPG Financing Entities ~~as contemplated under the *Ontario Fair Hydro Plan Act*, to one or more OPG Financing Entities under~~ substantially reflecting the terms set out in the ~~Appendix~~ Provincial Protection and Assurances Indicative Term Sheet and subject to such revisions that the two ministers acting together may determine;

(b) Recommend that Cabinet approve an Order in Council, in accordance with section 5 of the Ontario Fair Hydro Act, that authorizes the Minister of ~~Energy~~ Finance and the Minister of ~~Finance~~Energy, acting together on behalf of the Province,

(i) to agree to guarantee or indemnify any debts, obligations, securities or undertakings associated with an investment interest~~,~~; and

(ii) to determine terms and conditions of the guarantee or indemnity and the maximum liability for the guarantee or indemnity~~,~~.

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~~specify terms and conditions that must be included in any guarantee or indemnity given by the Minister of Energy and the Minister of Finance; and~~

~~specify a maximum liability for the guarantee or indemnity.~~

DRAFT

~~A~~APPENDIX

Provincial Protections and Assurances

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 Protection Agreement:	A Change of Law Protection 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.
Protection Events:	Any of the following would constitute a Protection 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 Protection Agreement or any of the agreements under which Specified Claims arise, other than if the Indenture Trustee has confirmed in writing that the affect under such agreements is otherwise acceptable; 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 Pay Specified Claims:	Upon the occurrence of a Protection Event, the Indenture Trustee will have the right to require the Obligor to pay the Specified Claims owing by 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 Protection 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 a Specified Claim to a Beneficiary, the Obligor as guarantor shall have rights of subrogation, including becoming 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 Protection Agreement will continue for as long as any Specified Claim remains outstanding.
Obligor Approval:	The Change of Law Protection 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 Protection Agreement applies to such Specified Claim. The Change of Law Protection 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 Protection 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 Protection 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 Protection 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.

~~Updated Draft to be Attached~~

~~**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.

From: Anis Hirani
To: Mike Manning; Gadi Mayman; Ronald Kwan; Carlos Yep
Cc: Hresa Gavaris; Anna Strathy; Martine Bell
Subject: Update on FHP Guarantee

From:	Whitfield, Tobias P. (MOF)
To:	Mike Manning; Ken Kandeepan; Ronald Kwan; Carlos Yep; James Devine; Opal Kandelas; John Kim
Cc:	Malle Hanslep (MOF); Elcombe, James (MOF)
Subject:	Updated Draft Provincial Support Discussion Document
Date:	Wednesday, June 14, 2017 12:46:55 PM
Attachments:	23148306-v5-Term Sheet - Provincial Support Agreement - May 12.docx 23148306-vpdf-Term Sheet - Provincial Support Agreement - May 12.pdf

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Please find attached a markup of the proposal from OPG regarding the Provincial Support Agreeement.

This markup is the result of discussions between us at MOF Legal, lawyers from Energy Legal and the Province's external counsel at Blakes.

The changes are significant and we would like to get your feedback on our proposed approach. Perhaps we can have a discussion first with this group, and then a broader discussion with the Energy team and Stephen Ashbourne from Blakes.

Please let us know when you have had a chance to review and are available to discuss.

Best
Toby

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Provincial Protection and Assurances

Indicative Term Sheet[1]

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.*

Performance Guarantees	
Performance Guarantor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	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 Performance 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.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

Performance Guarantee:	Pursuant to a Performance Guarantee, the Performance 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 Performance Guarantee is held to be unenforceable against the Performance Guarantor, the Performance Guarantee will contemplate, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.

Indemnity of the Province:	The Province of Ontario will indemnify each Indemnitee for its costs, expenses and losses reasonably incurred by the Indemnitee (including because of claims made against the Indemnitee by one or more of its specified creditors) that result from any of the following (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario repealing (and not replacing on an equivalent basis) the Act; (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; or (C) 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.
Term:	The 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.
Approval Requirement:	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, the will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Indemnity:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or for loss of profits.
Undertakings regarding Certain Mismatches	
Avoidance of Mismatches	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 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 all of its related payment obligations and thereby avoid any Mismatch.

Possible Undertaking to Fund Mismatches	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 avoid 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 avoid the Mismatch. Any such undertaking may only be given at or before the incurrence of the funding obligation that would otherwise result in the Mismatch and would be on such terms and conditions, including appropriate compensation to the Province of Ontario, 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.
<u>Documentation</u>	
Representations, Terms and Conditions:	Subject to approval of the Minister of Energy and the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance 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 Performance Guarantor or the Indemnitor, or any agent or representative of the Performance 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.
Confidentiality Obligations:	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.
Governing Law:	Province of Ontario.

Provincial ~~Support Agreement~~Protection and Assurances

Indicative Term Sheet[1]

Ontario Fair Hydro Plan Act, 2017

*This term sheet (the "**Term Sheet**") ~~is provided exclusively to the parties listed herein in connection with the draft~~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. ~~Defined~~Unless otherwise specified, 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~~protection and assurance arrangements contemplated in this Term Sheet ~~in addition to such other representations, warranties, indemnities, and other~~will include such terms and conditions as the ~~Guarantor and the Beneficiaries (each as defined below) may reasonably require~~Minister of Energy and the Minister of Finance determine to be appropriate.*

Performance Guarantees	
Performance Guarantor:	~~Her Majesty the Queen in right~~The Province of Ontario, ~~as represented~~ by the Minister of Energy and the Minister of Finance acting together.
Beneficiaries:	~~The indenture trustee (together with its successors, the "**Indenture Trustee**") under the master trust indenture (the "**Master Trust Indenture**")~~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 Performance Guarantee to its creditors and contractual counterparties, including any indenture trustee acting on behalf of itself and ~~all~~ other persons having debt or other claims against ~~a~~the Financing Entity that are 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, the trustee of the Financing Entity if the Financing Entity is a trust, and any other administrator of the Financing Entity~~a related trust indenture.

[1] This draft term sheet is intended for discussion purposes only and does not represent a commitment of any party. Any agreement or undertaking of the Province contemplated in this term sheet may only be made either (a) with the approval of the Lieutenant Governor in Council as contemplated in subsection 5(2) of the Act or (b) under, and subject to, an order made by the Lieutenant Governor in Council as contemplated in subsection 5(3) of the Act.

~~**Term:**~~	~~The Guarantor's obligations under the Provincial Support Agreement will continue until **[one year]**[1] after all 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:	~~Under the Master Sale and Servicing Agreement to be entered into by IESO and the Financing Entity, **[and OPG as Financial Services Manager]** ("**MSSA**"), IESO will have obligations both as a seller and as a servicer. Pursuant to a performance guarantee~~Pursuant to a Performance Guarantee, the Performance Guarantor will guarantee ~~in favour of the Beneficiaries to perform~~the performance, 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 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 ~~the obligations of any replacement servicer. The Guarantor will also guarantee the~~ servicing obligations ~~of the~~undertaken by IESO to enforce the performance by electricity vendors of their respective obligations under the Act. ~~The servicing~~It is anticipated that such obligations ~~covered~~ will include ~~all obligations~~matters related to the ~~collecting~~billing, collection and ~~remitting~~remittance of clean energy adjustments ~~and will protect the Beneficiaries from any risks arising from~~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 ~~being commingled~~ with other amounts. In the event that the ~~performance guarantee~~Performance Guarantee is held to be unenforceable against the Performance Guarantor, the ~~Provincial Support Agreement~~Performance Guarantee will contemplate ~~a separate legal obligation by the Guarantor to indemnify the Beneficiaries for any losses that result~~, in the alternative, a functionally equivalent direct covenant of the Performance Guarantor.
Term:	The Performance Guarantor's obligations under a Performance 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 Performance Guarantee.
Approval Requirement:	The servicing obligations (including any amendments) to which the Performance Guarantee relates, together with the provisions of

[1] ~~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.~~

	any Performance Guarantee itself, will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under Performance Guarantee:	Under no circumstances shall the Performance Guarantor be obligated to pay special or punitive damages, or for loss of profits.
Indemnity	
Indemnitor:	The Province of Ontario, by the Minister of Energy and the Minister of Finance acting together.
Indemnitees:	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.
~~Payment Guarantee Event~~Indemnity of the Province:	~~A Payment Guarantee Event will occur if~~The Province of Ontario will indemnify each Indemnitee for its costs, expenses and losses reasonably incurred by the Indemnitee (including because of claims made against the Indemnitee by one or more of its specified creditors) that result from any of the following (each, an "**Indemnification Event**"): (A) the Legislative Assembly of Ontario ~~repeals~~repealing (and not replacing on an equivalent basis) the Act; ~~or~~ (B) the Legislative Assembly of Ontario ~~amends~~amending the Act or a Regulation made thereunder ~~is amended~~ in a way that materially and 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~~affects the rights and interests of the Financing Entity under its investment interest; or (C) a court of competent jurisdiction ~~(i)~~in a final and non-appealable judgement determines that all or a portion of the Act ~~to be~~is *ultra vires* in a way that materially and adversely ~~impacts~~affects the ~~ability~~rights and interests of ~~a~~the 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 (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~~under its investment interest.
~~Payment Guarantee~~Term:	~~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.~~ The 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.
Approval Requirement:	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, the will be subject to the approval of the Minister of Energy and the Minister of Finance acting together.
Limits under ~~Guarantees~~Indemnity:	Under no circumstances shall the Guarantor be obligated to indemnify any Beneficiary for special or punitive damages, or for 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 all Beneficiaries in full, to the extent of such payments the Guarantor shall be subrogated in and to all the rights of recovery of the Beneficiaries 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 indebtedness and obligations owing to the Beneficiaries, the Indenture Trustee will acknowledge and agree on behalf of the Beneficiaries that the Guarantor is entitled to exercise all of the rights, powers and privileges that the Beneficiaries have 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:**~~**Undertakings regarding Certain Mismatches**	~~The Indenture Trustee will be required to provide notice to the Guarantor of a 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:**~~**Avoidance of Mismatches**	~~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~~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 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 all of its related payment obligations and thereby avoid any Mismatch.
~~**Reporting Requirements of a Financing Entity:**~~ **Possible Undertaking to Fund Mismatches**	~~The Guarantor will be entitled to receive all reports received by the Indenture Trustee under the Master Trust Indenture~~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 avoid 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 avoid the Mismatch. Any such undertaking may only be given at or before the incurrence of the funding obligation that would otherwise result in the Mismatch and would be on such terms and conditions, including appropriate compensation to the Province of Ontario, 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.
~~Conditions Precedent to Closing:~~Documentation	~~Conditions precedent to Closing shall be those conditions set out in the Master Trust Indenture.~~[2]
Representations, Terms and Conditions:	~~Customary representations~~Subject to approval of the Minister of Energy and ~~warranties of the Guarantor~~the Minister of Finance acting together.
FIPPA:	Acknowledgement that the Performance Guarantor ~~is~~and the Indemnitor will be bound by the *Freedom of Information and Protection of Privacy Act (Ontario)* and that any information provided to the Performance Guarantor or ~~its agents or representatives~~the Indemnitor, or any agent or representative of the Performance Guarantor or the Indemnitor, in connection with the ~~Transaction Documents~~transaction documents may be subject to disclosure in accordance with that act or as otherwise required by law.
Confidentiality Obligations:	~~Customary confidentiality~~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~~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.
Governing Law:	Province of Ontario.

[2] ~~Opinions on the validity and enforceability of Provincial Support Agreement will be required.~~

Document comparison by Workshare Compare on Wednesday, June 14, 2017 11:58:41 AM

Input:	
Document 1 ID	PowerDocs://TOR_2528/23148306/1
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Document 2 ID	PowerDocs://TOR_2528/23148306/5
Description	TOR_2528-#23148306-v5-Term_Sheet_-_Provincial_Support_Agreement_-_May_12
Rendering set	Standard

Legend:	
Insertion	
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Moved to	0
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Format changed	0
Total changes	163

From:	Bruno Amara
To:	Ronald Kwan
Cc:	Shajee Kathirgamanathan; Gavin He
Subject:	revise Provincial Agreement slides
Date:	Saturday, June 24, 2017 10:54:15 PM
Attachments:	M - FHP Briefing (2017 06 23 v8).pptx

Hi Ron

Per our discussion see suggested revisions to the Provincial Agreement slides (now two slides 13 and 14). To address the remedy and limits.

Bruno

Ontario's Fair Hydro Plan

Corporate and Electricity Finance Division

DRAFT: June 28, 2017

Contents

- Overview: Ontario's Fair Hydro Plan
- Refinancing the Global Adjustment
- Outstanding Issues
  - Provincial Support Agreement
  - Indemnities to OPG and IESO
  - IESO Treasury Policy Amendments
  - Equity Injection
  - PILs Exemption
  - Performance Management Fees
- Appendix: GA Financing
  - GA Refinancing Structure
  - Equity Injection
  - IESO increased credit facility
  - GA Financing: Illustrative Net Debt Impacts
- Appendix: Background on Ontario's Electricity Market

Overview:
Ontario's Fair Hydro Plan

Overview:
The Ontario Fair Hydro Plan ("OFHP")

- On May 31, 2017, the government passed the Ontario Fair Hydro Act, 2017, to enable the implementation of the OFHP, which will lower electricity bills by 25 per cent on average for eligible residential customers. Eligible farms and small businesses will also receive benefits (essentially for those eligible for the Regulated Price Plan).
  - Implementation steps include a set of regulations under the Act brought forward by the Ministry of Energy for approval.
- The measures that make up the 25 per cent average reduction include
  - Refinancing a portion of the Global Adjustment (GA) to allocate fairly the costs of Ontario's contracts for electricity infrastructure investments over the expected lifecycle of the generation infrastructure assets.
    - The Global Adjustment recovers a portion of the commodity supply and conservation costs of electricity.
  - The Ontario Rebate for Electricity Consumers, for an amount equal to the provincial portion of the HST, which took effect on January 1, 2017.
  - Shifting funding of the Ontario Electricity Support Program (OESP) and Rural or Remote Rate Protection (RRRP) program from electricity ratepayers to the province.
- People with low incomes, those served by local distribution companies (LDCs) with the highest distribution costs, OESP recipients and On-Reserve First Nation households would benefit from even greater reductions to their electricity bills.

Overview:
The Ontario Fair Hydro Plan (cont'd)

- Other measures that make up the Fair Hydro Plan include
  - Expanding the Industrial Conservation Initiative (ICI) to include electricity consumers, in the manufacturing and certain other sectors including greenhouses, with an average monthly peak demand of greater than 500 kW and less than 1 MW.
  - Expanding the OESP, by providing 50 per cent more support in the form of monthly credits for people with low incomes and increasing eligibility, effective May 1, 2017.
  - Establishing an Affordability Fund that will be accessible to LDCs for customers who do not qualify for low-income conservation programs and who are unable to undertake energy efficiency improvements without financial assistance.
  - Providing on-reserve First Nations households with a 100 per cent credit of the delivery line on their monthly electricity bills.
  - Enhancing the Rural or Remote Rate Protection (RRRP) program to provide distribution charge relief to about 800,000 customers and shift costs from ratepayers to provincial revenues. This would include customers served by local distribution companies (LDCs) with the highest rates.
  - Improving energy sector efficiency and modernize the province's electricity market, building on the collaboration of the Independent Electricity System Operator (IESO) and the Ontario Energy Board (OEB).
- The government-funded measures (OESP, RRRP, on-reserve credits and the Affordability Fund) have been communicated to cost the government about $2.5 billion in the first three years (and would have an on-going annual cost to government). (Note: Actual amounts in the 2017 Budget fiscal plan is a little less, due to partial year implementation in 2017-18).

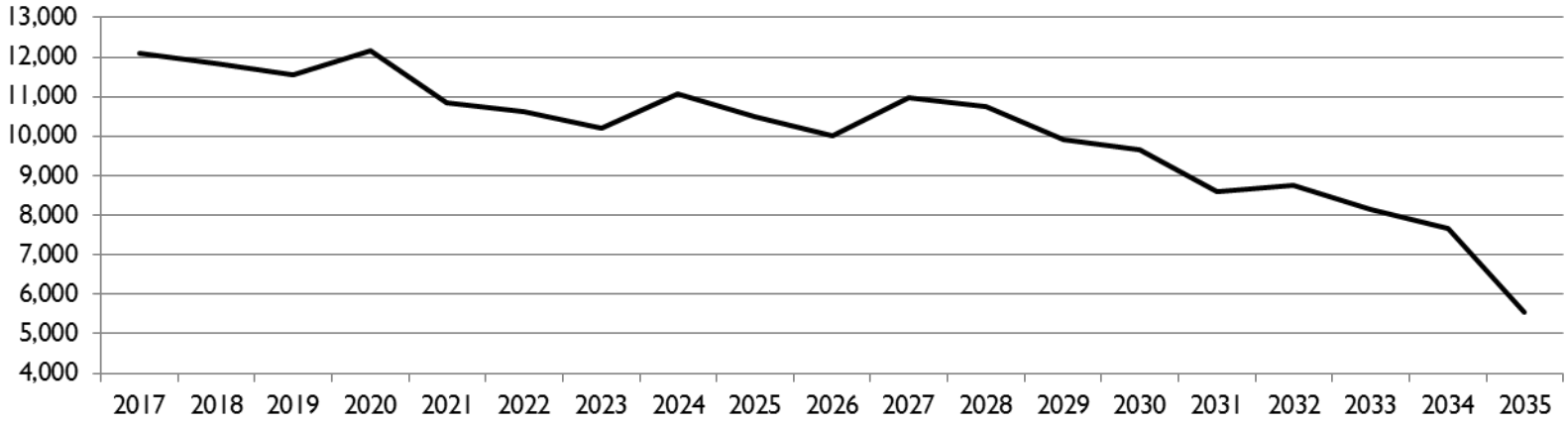
Refinancing the Global Adjustment

Refinancing the Global Adjustment

- Refinancing the Global Adjustment (GA) provides significant and immediate rate relief by spreading the cost of electricity investments over a longer period of time.
- Under forecasts provided by the Ministry of Energy at the time of the OFHP announcement in March, the immediate reduction (i.e., the financed portion) in the GA would be about $2.5 billion per year on average over the first ten years.
- This measure would share the associated costs more fairly. The illustrative chart below shows how Global Adjustment (GA) cost is front-end loaded and forecast to decline over time.

NOTE: Energy and IESO forecasts are subject to update, including as part of the Ministry of Energy's current Long-term Energy Plan update process.

Forecast Global Adjustment Cost (nominal $ million)



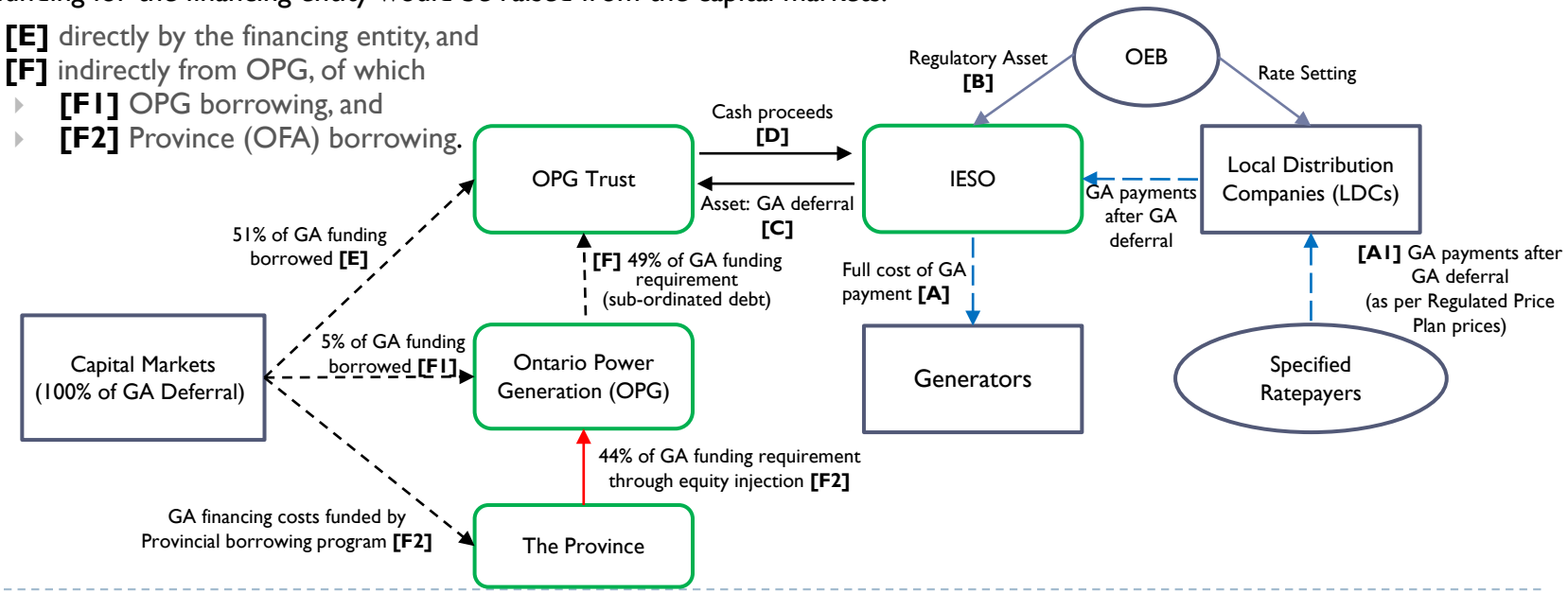
Source: IESO

Global Adjustment Financing: Policy Rationale

- The purpose of the Global Adjustment refinancing is to
  - Ensure that clean energy costs and clean energy benefits are fairly allocated among present and future specified consumers
  - Recognize that clean energy benefits have accrued and will accrue over time and will continue to benefit present and future electricity consumers in the Province, and
  - Align clean energy costs with clean energy benefits, in order to provide fairness for specified consumers over time.
- The majority of the province's electricity generators are under 20-year contracts. Many of these generators will be able to operate past their contract term.
- By recognizing that generation assets are expected to continue to provide benefit to future ratepayers, beyond the term of current contracts, future ratepayers are expected to be able to utilize these assets and reduce the need to finance the development of new generation assets.
- In the early years, a portion of the costs covered by the GA would be financed to reduce pressure on electricity ratepayers.
- In the later years, when some system costs are expected to be reduced due to continued operation of existing assets under 20-year contracts, the deferred amounts and cost of financing would be recovered from ratepayers through a "Clean Energy Adjustment".

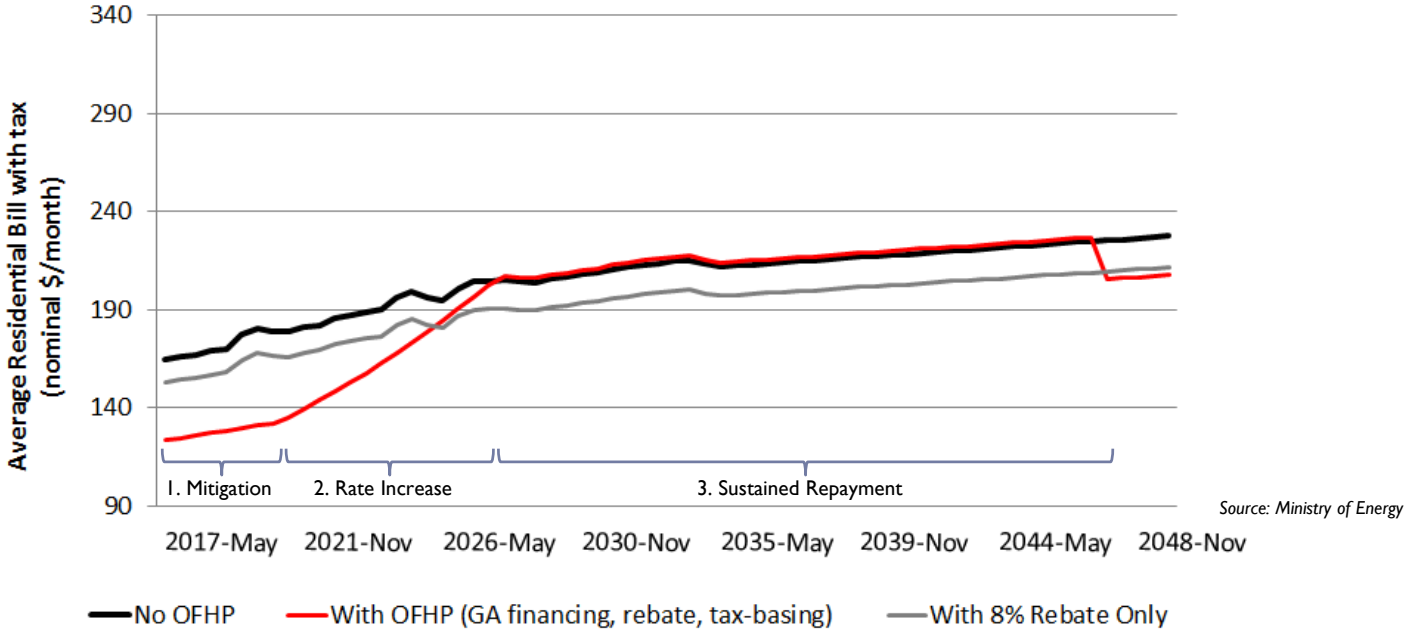
GA Financial Structure

- Through the OFHP, GA costs, including refinancing costs, will be recovered from ratepayers over a longer period of time.
  - The GA refinancing framework will be implemented through the IESO and Ontario Power Generation (OPG).
  - Under the OFHP, OPG would be able to establish a special purpose vehicle financing entities (e.g., OPG Trust) .
- **[A]** Under the OFHP, the IESO will continue to pay generators their contracted and regulated prices. **[A1]** However, LDC payments will be less, as Regulated Price Plan prices are set based on a portion of the GA deferred in order to support the initial 25% reduction (and subsequent adjustments).
- **[B]** The IESO will set up a deferral account, vis a vis a 'regulatory asset', with a right to recover the deferred costs and financing costs, as authorised by the OEB.
- **[C]** Under the Act, the Independent Electricity System Operator (IESO) would be able to sell the 'right to collect' deferred future revenue from ratepayers to the financing entity in return for cash proceeds **[D]**.
- The funding for the financing entity would be raised from the capital markets:
  - **[E]** directly by the financing entity, and
  - **[F]** indirectly from OPG, of which
    - **[F1]** OPG borrowing, and
    - **[F2]** Province (OFA) borrowing.



Global Adjustment Financing

- GA Financing structure and bill impacts can be thought of as having three phases (see illustrative chart below)



Source: Ministry of Energy

Phase 1: Mitigation

- 2017 residential bill 25% on average lower than original projection (pre-8% Ontario Rebate for Electricity Consumers).
- Increase in bill capped to 2% per year until 2021.

Phase 2: Rate Increase

- Residential bills continue lower than without the OFHP; however, not by 25% on average.
- Bill increases each year, limiting overall deferral and borrowing.
- Planned increases for the above purpose projected to end in 2028 when sustained repayment starts.

Phase 3: Sustained Repayment

- Bill higher than projection, excluding the GA deferral, until 2047 (estimated).
- Difference between with OFHP (red) and 8% rebate (grey) only represents recovery of deferred GA and financing.

Risks / Cost Sensitivities

Global Adjustment Refinancing Model Assumptions

- Projected Global Adjustment Refinancing costs are affected by actual system costs and consumption, and actual interest rates.
- Variances from these key assumptions could affect actual refinancing costs, etc.

- Interest rates
  - Higher/lower Interest rates would lead to higher/lower refinancing costs
  - For example, a 1.5 percentage point lower interest rate assumption, compared to an illustrative 5% case used by the Ministry of Energy, would halve estimated cumulative interest costs, from about $21 bn to $11 bn.

- Electricity demand
  - Lower/higher electricity demand due to fewer consumers or lower/higher consumption among some consumers would increase/decrease Clean Energy Adjustment costs for remaining consumers.

- System Costs
  - Ministry of Energy is developing the updated Long-term Energy Plan (LTEP), expected to be released in about summer 2017. The LTEP is expected to include measures to continue to reduce system costs.
  - Actual system costs are expected to also be affected by other factors, such as the Ontario Energy Board rate application process.

MOF-Related Outstanding Issues

Provincial Support Agreement
[Ministers' Approval Item: Pending]

- The OFHP Act, s. 5, outlines certain protections and assurances to be provided by the Province, including agreements to be entered into by the Ministers of Energy and Finance with persons under the Act. These include
  - guarantees of, or undertakings by the Province to provide assurances to those with claims against the Financing Entity (with respect to debts, obligations, securities or undertakings associated with an investment interest), and to support credit ratings, and to outline undertakings by the Financing Entity and possibly the Province for satisfying funding obligations.
  - This is separate from the indemnities proposed to be provided by the Ministry of Energy for OPG, IESO and respective directors, officers and employees with respect to their activities in implementing the Fair Hydro Plan.
- A proposed Provincial Support Agreement is currently under discussion among Ministry of Energy, Ministry of Finance, OFA, external legal consultants and OPG.

Provincial Support Agreement
[Ministers' Approval Item: Pending]

- There are three facets of the draft proposed Provincial Support Agreement currently under discussion. Each of these would require Agreement/approval of Ministers of Energy and Finance:
  1. Service Guarantee: Province to guarantee the performance of the IESO and electricity vendors under the Act including billing, collection and remittance of clean energy adjustments.
  2. Indemnity: Provided by Province for Financing Entity against third party claims as a result of government amending or repealing the Act or court rulings adversely affecting the rights and interest of the Financing Entity. Indemnity applies only to direct government actions and would not cover, for instance, OPG activities
  3. Avoidance of Mismatches: during a reference period, between Financing Entity funding obligations and amount available from investment interests: Outlines roles and expectations of Financing Entity to make efforts to arrange for commitments from market-based funding sources and, if unable to do so, possible Province funding commitments under terms and conditions, including appropriate compensation to the Province.
  - Under both the Service Guarantee and the Indemnity the Service Guarantor (the Province) will have the option to satisfy obligations by "stepping in) and paying when due regularly scheduled amounts. In both cases the Servicing Guarantor would not be obligated under any circumstances to pay consequential, special or punitive damages, or for economic loss or loss of profits.

- Note: Separation between the Province and OPG is necessary to maintain appropriate accounting treatment.

Indemnity
(For Minister's s.28 Approval)

- The Ministry of Energy is proposing to provide, on behalf of the Province, certain indemnities as requested by OPG and IESO, and is asking, pursuant to Section 28 of the *Financial Administration Act, 1990 (*FAA*)*, that the Minister of Finance approve this request.
  - OPG and IESO are requesting that the Province indemnify the corporations (OPG and subsidiaries, not including the financing entities, and IESO), respective directors, officers and employees with respect to their roles in implementing the Ontario Fair Hydro Plan (OHFP).
  - ENERGY notes that in the event that an indemnity claim does arise and a payment is required, the Ministry would be unlikely to be able to support these payments and would need to return to TB/MBC for an increase in its allocation.
- In implementing the OFHP, OPG and the IESO expect to carry out activities that fall outside the scope of their pre-OFHP typical business activities and corporate mandate. They believe that this creates the risk that such activities could be perceived as, or subject to claims that they are not being carried out in "good faith" or in the best interest of the corporation, thereby exposing OPG and/or the IESO to increased liability.
- OPG and IESO note that existing statutory protections do not preclude a party from bringing an action or other civil proceeding against the corporation's directors, officers or employees, causing them to incur costs in defending the claim.

Indemnity (cont'd)
(For Minister's s.28 Approval)

- Under the proposed Agreements, the Province would agree to indemnify and hold harmless the corporations and their respective directors, officers and employees from any claims, liabilities, costs or losses that might arise to the Protected Person as a result of their roles in carrying out activities related to the implementation of the ONFHP.

- The proposed Agreements note that under the Indemnities, a protected person would not be entitled to be indemnified in respect of losses for which coverage is provided elsewhere, including through insurance policies or existing statutory indemnities.

- Indemnity would not cover a protected person losses that are the result of such protected person's dishonesty, gross negligence or willful misconduct.

- The Agreement includes a waiver that restricts the Province's ability to bring any claims (other than those arising out of gross negligence and wilful misconduct) against the Protected Persons.

  - MENE believes the risk associated with providing this waiver is likely low given that it is unlikely that the Province would bring a claim against a Protected Person for acts they would be providing an indemnity to the Protected Person for.

Indemnity (cont'd)
(For Minister's s.28 Approval)

- Ministry of Finance staff recommend approval of the s.28 request.
  - Ministry of Energy indicates that the Indemnities have been requested by the companies, supporting the implementation of the OFHP.
  - The Ministry of Energy states that the risk of the Province providing the Indemnities is undeterminable and unquantifiable at this time, due to uncertainty around possible claims under the Indemnities. Ministry of Energy notes, however, that the risk is mitigated by the existence of statutory immunities under the *Electricity Act, 1998,* for IESO, and under the *OFHP Act, for OPG,* pre-existing protection for director, officers and employees under insurance and, the limitation of indemnity to claims arising from IESO's and OPG's respective roles in implementing the OFHP.

IESO Treasury Policy
(For Minister's Approval)

- As prescribed under Regulation 280/14 under the *Electricity Act, 1998,* the IESO is required to maintain investment, borrowing and financial management policies and procedures.

- As required under the Regulation, the IESO has submitted a revised IESO Treasury Policy for Minister of Finance approval.

- The revised IESO Treasury Policy incorporates the following two changes:
  1. Permit borrowings to ensure funding of any amounts resulting from or required under the *Ontario Fair Hydro Plan Act, 2017*.
  2. Increase counterparty exposure to Schedule A Canadian Banks from the current $420million to $500 million, an increase of $80 million exposure per counterparty.
     - This ensures that the IESO has flexibility to efficiently manage its cash accounts as evolving business requires IESO to manage higher cash flows and seek appropriate short-term investments.

- OFA staff have reviewed and have no concerns with the requested changes.

Equity Injection – Key Proposed Terms

OFA to Support under a Service Level Agreement

The terms for the Equity Injection are set out in the Fair Hydro Plan – Master Subscription Agreement Term Sheet.

- The Province agrees to inject 44% of total funding of GA asset by way of equity subscription in OPG, which amount OPG in turn will invest in the Fair Hydro Trust as subordinated debt (**Equity Injection Plan**)
- Ministry of Energy (as Shareholder) will seek appropriation on an annual basis through PRRT for the amounts requested by OPG for its equity requirements. OPG will provide forecasts of its equity requirements for the upcoming three years in its business plan submission.
- OPG agrees use the equity subscription amounts solely for funding the Fair Hydro Trust's subordinated debt requirements as part of the Fair Hydro Plan
- OPG will amend articles of incorporation to create an additional class of shares – Class A Shares – which will be non-voting and redeemable at OPG's option.
  - OPG will issue Class A Shares to the Province monthly at a value per share equal to book value, as determined from OPG's last approved quarterly financial statements
  - OPG will have the right to repay equity subordinated to the Province, through exercise of its right to redeem the Class A Shares, as principal repayment of the debt is made commencing in 2027
- Ministry of Energy and OFA would, as proposed, have a service level agreement in place providing authority for OFA to provide cash management services to facilitate share purchases on an ongoing basis on behalf of the Ministry of Energy, subject to the approved PRRT amount and 44% share.

Performance Management Fees

- OPG will be providing all required services to the Trust as part of the OFHP, including planning, strategy, financing, deal execution etc.
- The legislation (s. 19.3) allows OPG to establish and charge a management fee for those services in accordance with the regulations, which are currently in development.
- There are two components to the model proposed by OPG:
  - Base fee: the structure will allow OPG to earn a commercial fee, an accounting consolidation requirement, with periodic OEB review of the commercial basis of that fee. OEB and OPG are in discussions in order to develop a model that satisfies the accounting requirements and is consistent with OEB's processes.
  - Performance management fee: OPG has the ability to gain or lose depending on the actual financing cost relative to a benchmark, which would be shared equally between ratepayers and OPG. Gain/loss is capped at 1% of annual incremental issuance amount.
- MOF (OFA) and Ministry of Energy are currently reviewing OPG's performance management fee proposal. [who approves?]

Payment in Lieu of Taxes Exemption
(Minister's Approval Item: Minister's Reg.)

- Request from OPG – and supported by ENERGY is a PILs exemption for the income arising from the OPG financing vehicle/OPG as a consequence of the Fair Hydro Plan.
  - With no PILs exemption, ratepayers will bear the cost of PILs through the rate base.
  - OPG has sought a broad comprehensive PILs exemption for a variety of potential financing structures including corporations, trusts or partnerships.

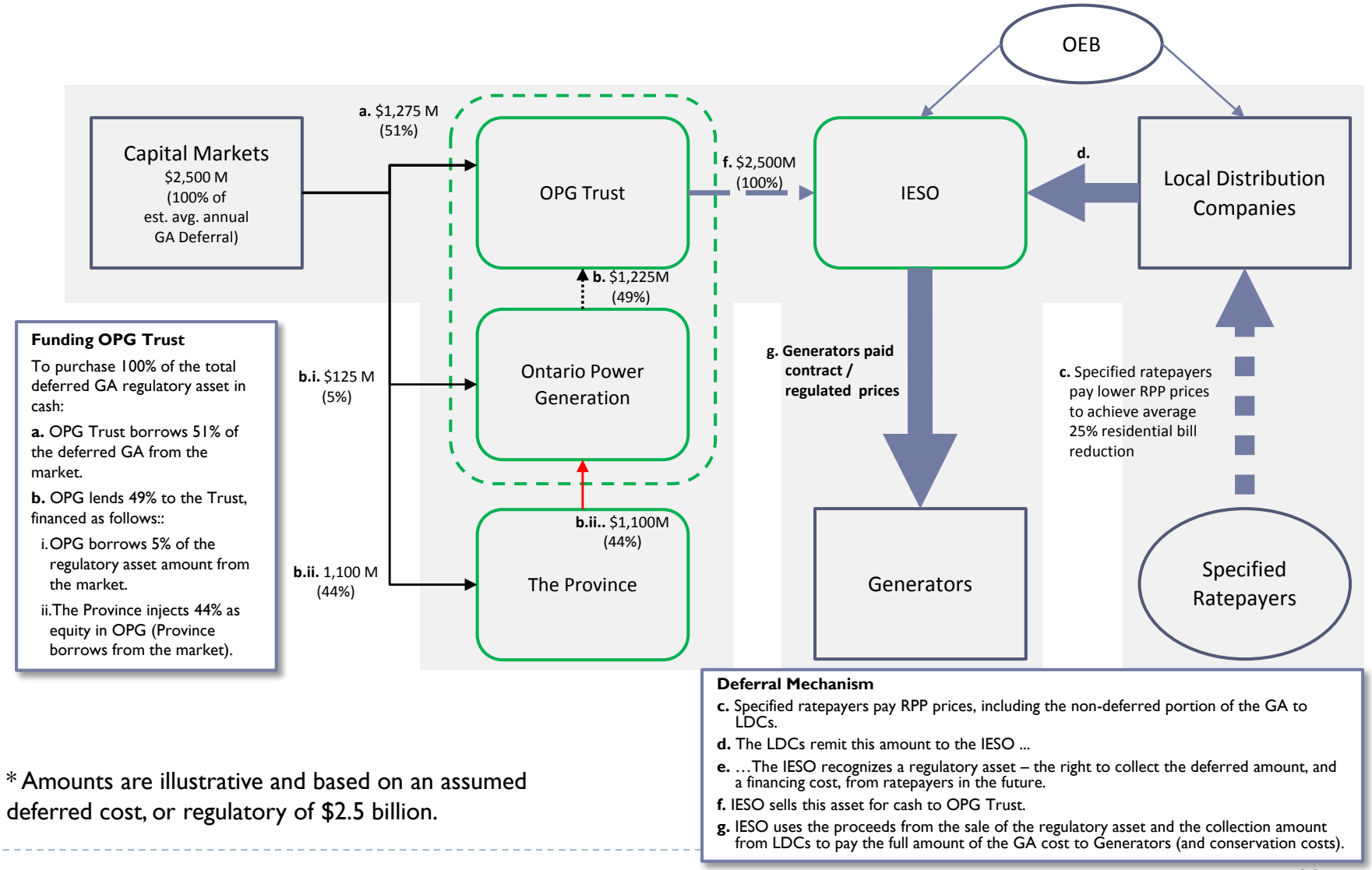
- The PILs regulations under the Electricity Act are under the purview of the Minister of Finance.

- TPD recommends [TBC] a regulatory exemption for each specific financing entity structure, once the structure is determined. A blanket exemption would create significant risks to provincial revenue and require a number of complex conditions to minimize the potential for precedents and tax avoidance.

- TPD proposes bringing forward for approval the required regulation(s) once OPG advises on each specific financing entity structure and any anticipated future structures or changes to the structure.
  - OPG has raised questions on the timeliness of response for a new regulation, as OPG special purpose vehicles for financing may be put together quickly to respond to different markets and market conditions

Appendix: GA Financial Flows & MOF / OFA Roles

GA Financing Structure: Illustrative Fund Flows* - Mitigation Phase



Funding OPG Trust

To purchase 100% of the total deferred GA regulatory asset in cash:

a. OPG Trust borrows 51% of the deferred GA from the market.

b. OPG lends 49% to the Trust, financed as follows::

i. OPG borrows 5% of the regulatory asset amount from the market.

ii. The Province injects 44% as equity in OPG (Province borrows from the market).

Deferral Mechanism

c. Specified ratepayers pay RPP prices, including the non-deferred portion of the GA to LDCs.

d. The LDCs remit this amount to the IESO ...

e. …The IESO recognizes a regulatory asset – the right to collect the deferred amount, and a financing cost, from ratepayers in the future.

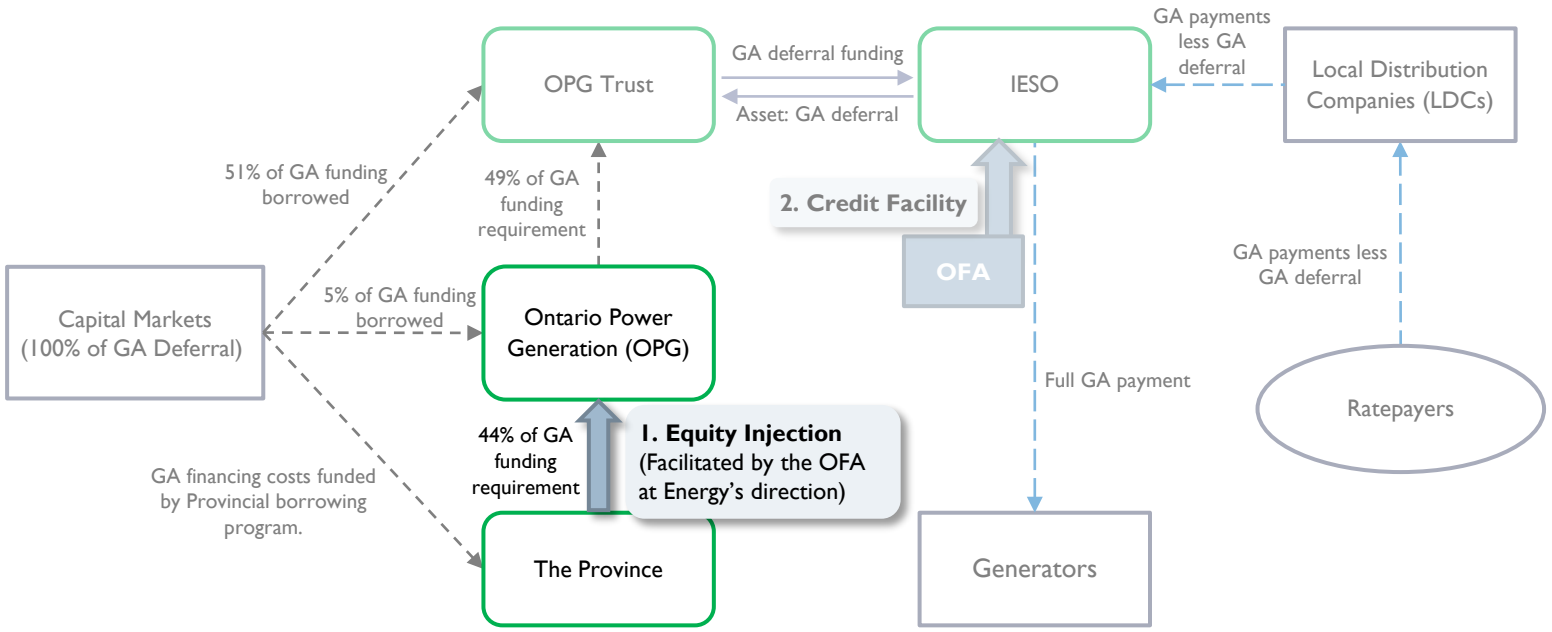
f. IESO sells this asset for cash to OPG Trust.

g. IESO uses the proceeds from the sale of the regulatory asset and the collection amount from LDCs to pay the full amount of the GA cost to Generators (and conservation costs).

* Amounts are illustrative and based on an assumed deferred cost, or regulatory of $2.5 billion.

Equity Injection

- The 2017 Budget includes in the Ministry of Energy Estimates an investment operating asset of $1.1 bn related to the Province's equity injection to OPG. OPG would provide financing to the Trust through sub-ordinated debt, as part of the OPG Trust financing to regularly purchase IESO's regulatory asset through 2017-18.
- The structure would
  - increase gross debt of the Province (to finance the equity injection in OPG),
  - increase net investment in OPG (so no net debt impact),
  - increase interest on debt related to that external debt, which
  - on consolidation into Public Accounts, would be offset by increased earnings of OPG from sub-debt interest revenue.



GA Financing: Illustrative Net Debt Impacts

Province of Ontario - Consolidated Statement of Financial Position

As at March 31, 2016 ($ Millions)		**GA Financing Impacts Est. Average Annual**
Liabilities		
Accounts Payable and Accrued Liabilities (Schedule 5)	19,361	
Debt (Note 2)	327,413	**1,100**
Other Long-Term Financing (Note 4)	14,145	
Deferred Revenue and Capital Contributions (Note 5)	10,779	
Pensions and Other Employee Future Benefits (Note 6)	12,107	
Other Liabilities (Note 7)	4,905	
	388,710	
Financial Assets		
Cash and Cash Equivalents	13,600	
Investments (Note 8)	21,765	
Accounts Receivable (Schedule 6)	11,059	
Loans Receivable (Schedule 7)	11,545	
Other Assets	1,936	
Investment in Government Business Enterprises (Schedule 9)	23,572	**1,100**
	83,477	
Net Debt	(305,233)	**0**
Non-Financial Assets		
Tangible Capital Assets (Note 9)	102,536	
Accumulated Deficit	(202,697)	

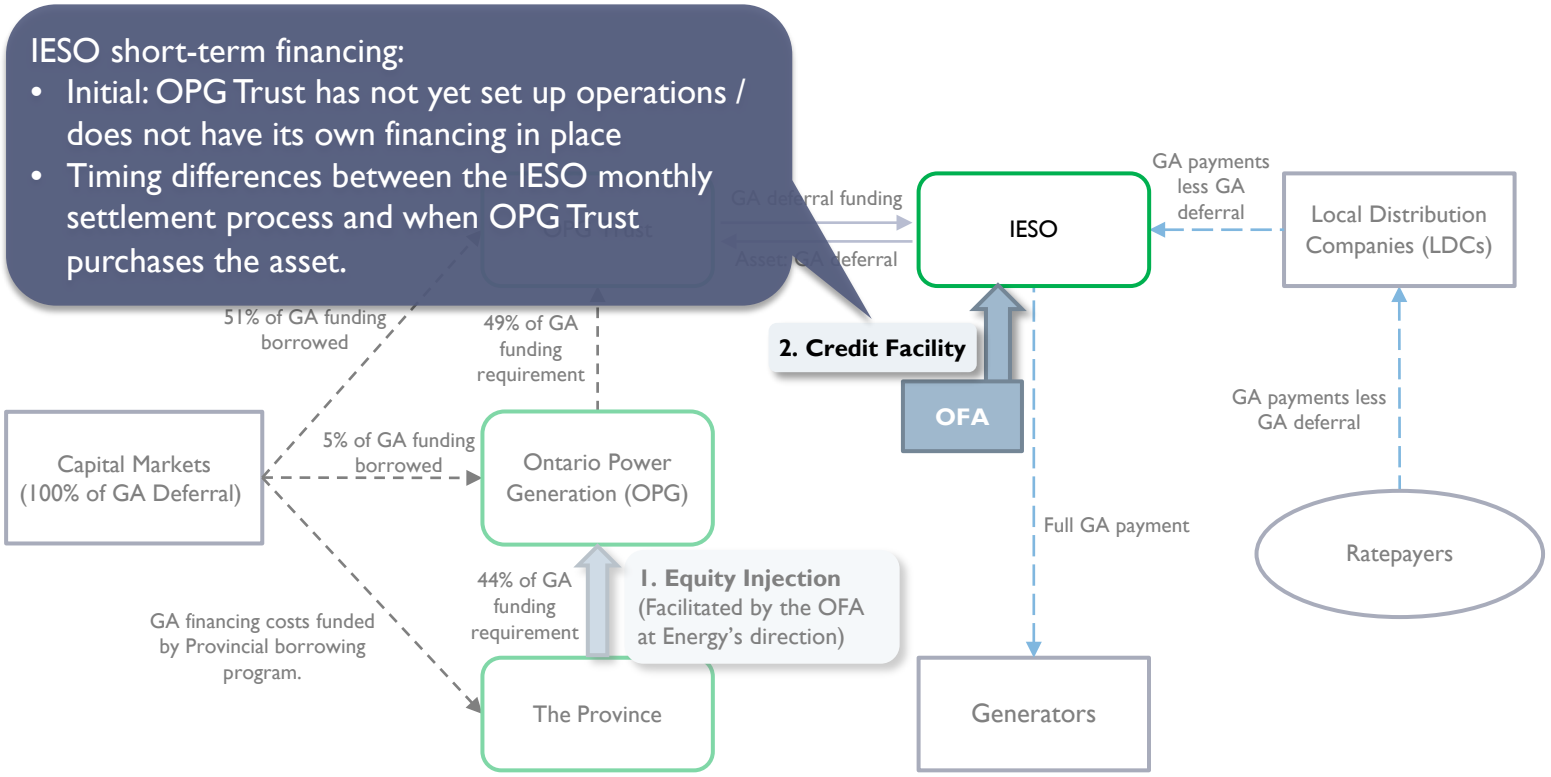
- Increased borrowing required to fund equity injections.
- Provincial debt will increase.

- Equity injections increase investment in OPG

- Offsetting impacts lead to zero net debt impact

OFA/IESO Credit Facility

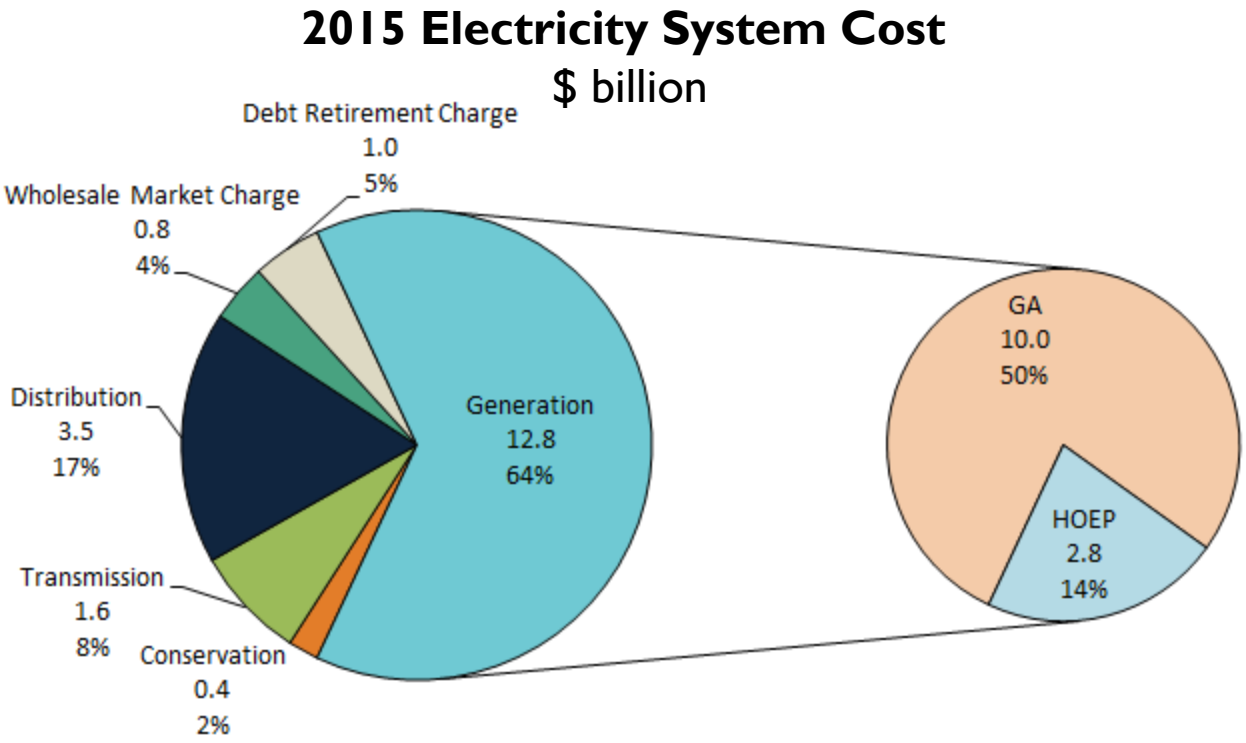
- The Fair Hydro Act, 2017 provides for the IESO to sell the right to recover those deferred amounts of the global adjustment from specified consumers in the future (the "regulatory asset").
- It is anticipated that the regulatory asset would be purchased by the financing entity to be established by OPG ("OPG Trust"). The cash received would be used by the IESO to fund the current Global Adjustment deferral shortfall.



Appendix: Background

Context: Ontario's Electricity Market

- In 2015, generation accounted for 64% of total electricity system costs. Total system costs in 2015 were $20 billion.



DEFINITIONS:

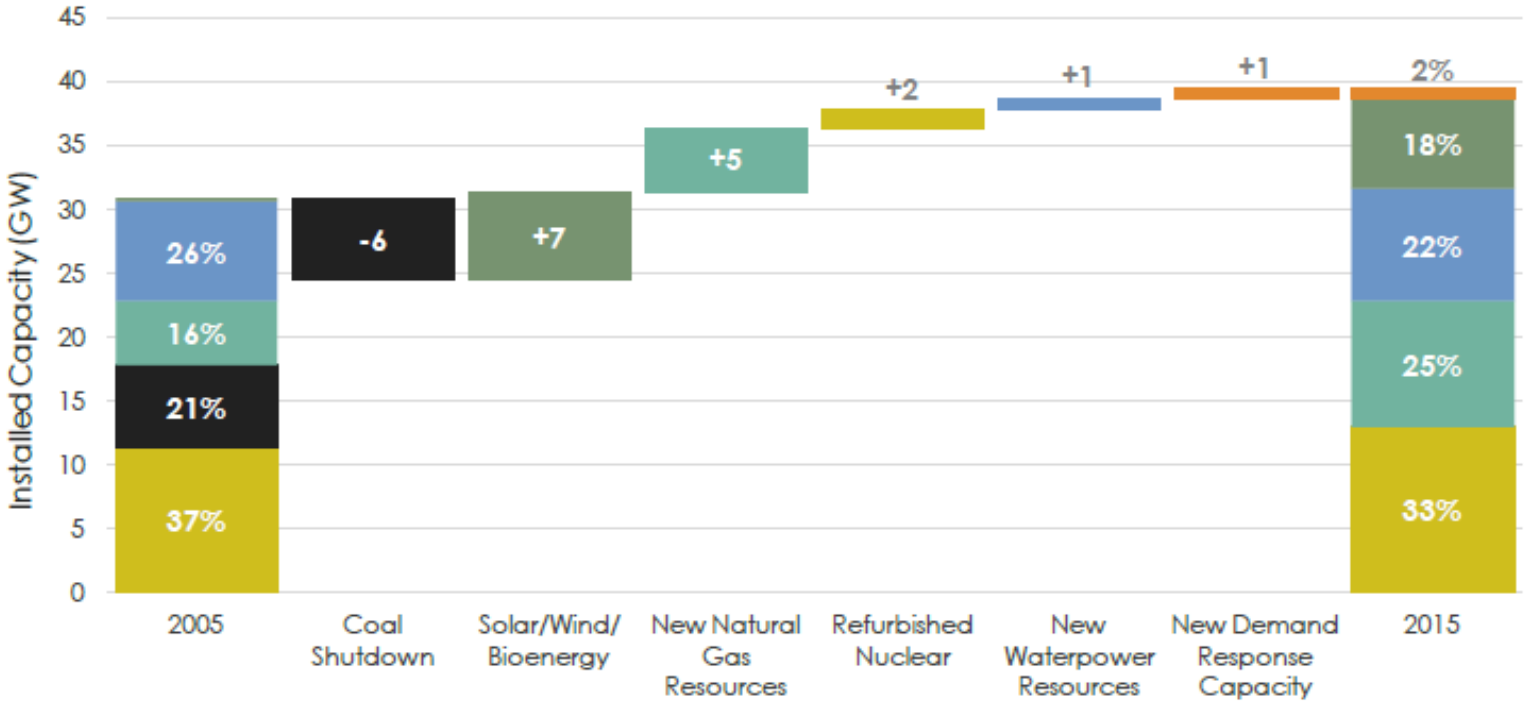
GA: The "Global Adjustment" accounts for differences between the market price of electricity and the rates paid to regulated and contracted generators and for conservations programs. The GA is collected from all electricity rates payers in Ontario

HOEP: Hourly Ontario Electricity Price.

Source: IESO

Context: Significant Change in Supply Mix

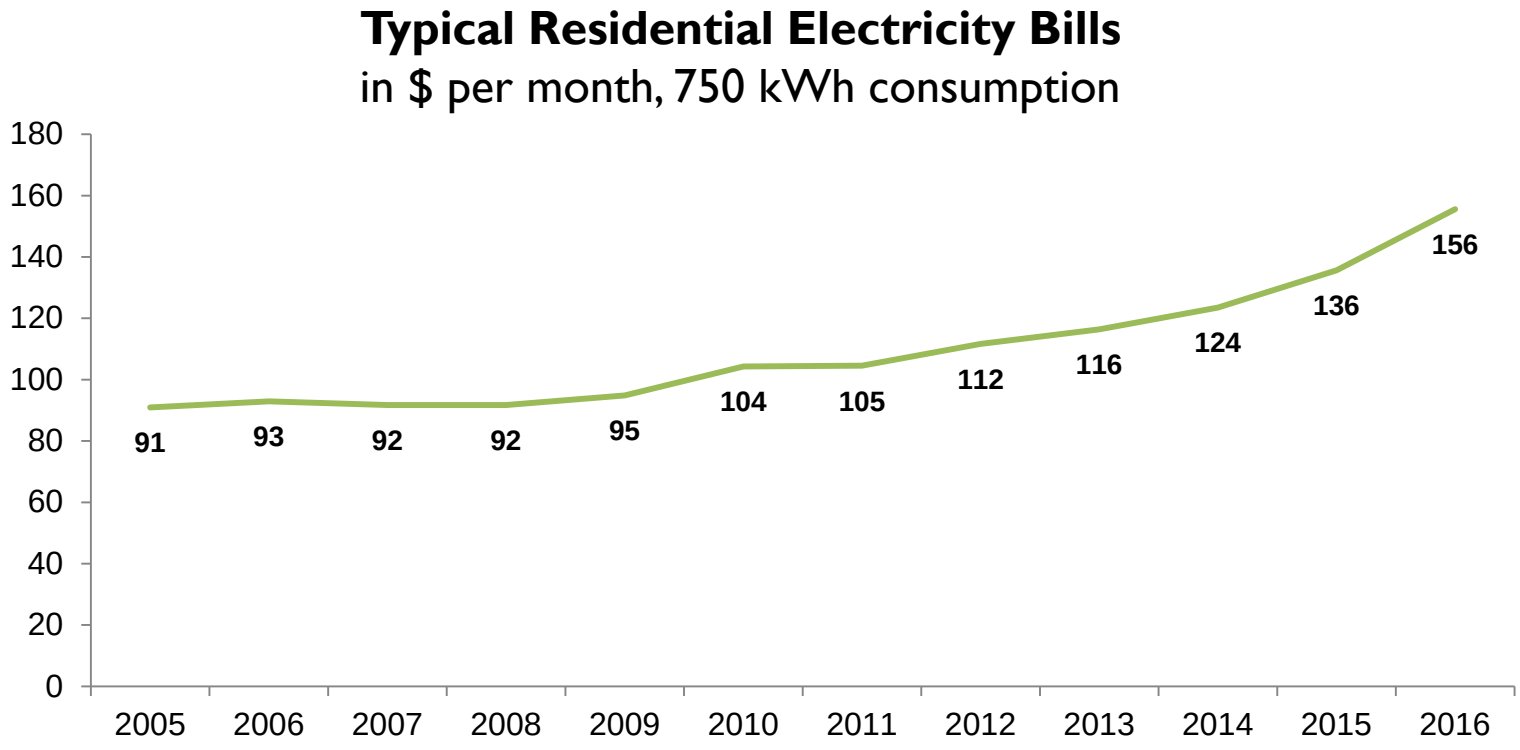
- Between 2005 and 2015, government invested more than $50 billion in the electricity system, including $35 billion in electricity generation to restore reliability, replace coal and meet environmental objectives.
  - Electricity costs are increasing as necessary investments are made to decarbonize and modernize the province's electricity infrastructure.



Source: IESO

Context: Electricity Prices Have Increased

- Since 2010, electricity prices have increased at a rate higher than the Consumer Price Index (CPI).



Source: Ministry of Energy