Maksymuik, Amanda (ENERGY)

Subject:	Ontario Fair Hydro Plan
Location:	79 Wellington St. W. - 33rd Floor TD South Tower, Torys
Start:	Wed 04/12/2017 2:00 PM
End:	Wed 04/12/2017 5:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Calwell, Carolyn (ENERGY/MEDEI/MRI)
Required Attendees:	Rehob, James (ENERGY); Shear, Dan (ENERGY); Kacaba, Jennifer (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); 'Mary Anne Aldred'
Optional Attendees:	'Myers, Jonathan'

Update

This meeting has been moved from Blakes to Torys due to boardroom availability.

Please contact Reception or Nicole Drake (ndrake@torys.com) when you arrive to be shown to the boardroom.

Hi Everyone,

This will be a meeting to discuss the Ontario Fair Hydro Plan (OFHP).

~~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.~~

Please forward this meeting invitation to your respective teams for their attendance if any individuals are not included.

Convo w Steve
Fair adjustment

Apr 17/2017

↳ will supress cost distrib y over y

○ FR → no occurrences for repayment in first five years
- interaction of when you set fair adjustment & when set by rep will reduce amount for occur.

- leave first 5 yr adjustment to into mechanics
- recognize that amount required

Klaus - 200 t to not be specific in first 5 yrs
- see what Goh pays back

- 17% in yr 17
- fair adj. CS

DS - no doc that can point to that would show people

JR - from adjust - from first 5 yrs consult reg.

DS - the law requires. the decl. decrease & then from upwards of next 10 yrs - passing bill and below portion of GA

SA - CAP - more quadratic line covers all period
- weaving put instruments under curve to allow LESO to finance gap
- have capacity for first 5 yrs can't use it
- adjustment push down - absorb. Benefit allocd

- line is

—

SA - yrs 3-5 want to OC OPG to 1 [illegible]
not to incur maturities.
- leave you'll [illegible] opport to do
adjustment in first 5 yrs
- will push it down -
reset on curve.

- mechanic exists bc curve.
applies go I on

- as long as [illegible], not
inconsistent all adds up

—

- 1st 5 yrs, creating out [illegible]
but for amort, [illegible] would
be continuous amt.

- you'll say - intergen. [illegible]
amortizable -

- take fuzzy [illegible] - quantify
- in second yr look at [illegible]
compare - that is secondary.
- each of those is an adjust / req

- in adjusted income - whatever decide looks like.

- gov't process' reg - having regard to form adjustment

↳ actual reg. → creates impact on form [illegible] plan.

CL - post reg that sets out ~~prop~~ plan long. for reg-posting

SA - [illegible] - not adjustment, separately defined)

- impact that treasurer has to have regard,

8th - reg. will allow you to make adjustment during first 5 yrs.
- re-g

[illegible] - treasurer will have regard to income & reg.

- what offs does in [illegible] [illegible] [illegible] constitute offs

SA - methodology for deferral
- don't drill down on first 5 yrs
- this won't impact reg. validity.

DS -

SH - I would do this & make effect for next 5 yrs

CC - put w/c in Act.?
w/c - in Act saying
- 17% for adjust for w/c.

for adjust for years 2-5 may be problem

- not doing hypothetical for first 5 yrs.

CC - striped down legis.
- [illegible] - blanks / our articles

Monday

deal w/
commitments

meeting on
monday

Wed
- SOC
- OPG board

Revised April 12/2017.

~~Comment Draft~~Torys' & Osler's Comments: April ~~10,~~12, 2017

Some Stikeman's.

CONFIDENTIAL AND PRIVILEGED

Preliminary Draft for Discussion Purposes Only

"Fair Hydro Act"

- preference to Stikeman's - Strict down.

Article 1 – Purpose

The Province has and continues to encourage the construction and development of facilities for the long-term operation and generation of electricity in the Province using sustainable, lower carbon-based technologies such as new gas-fired generation, renewable facilities, energy from waste and biomass, including under the Province's various procurement, standard offer, feed in tariff and other similar programs (the "Green Generation Initiative"). The long-term benefits of the Green Generation Initiative accrue over time and have benefited and will **continue to** benefit present and future electricity consumers in the Province.

The ~~imputed~~**out-of-market** costs of the Green Generation Initiative are currently passed through to electricity consumers by way of a monthly adjustment amount (the "Green Costs Adjustment"), which in turn forms part of the overall adjustment calculated by the Independent Electricity System Operator ("IESO") pursuant to section 25.33 of, and O.Reg. 429/4 under, the *Electricity Act* (the "Global Adjustment"). ~~The Global Adjustment is included as a charge billed to electricity consumers in their monthly electricity invoices.~~

The Green Costs Adjustment is currently determined each month by reference to the amounts paid by IESO to the generators of electricity in the Province under the Green Generation Initiative~~, which may be higher than prevailing market price for electricity. These differences~~. **These amounts paid by the IESO** arise because IESO has entered into long-term procurement contracts with such generators in order to provide them with ~~long-term price~~**revenue** certainty~~ for electricity~~, and in turn to encourage the generators to develop technologies and to construct and develop facilities consistent with the Green Generation Initiative. ~~In general, whenever amounts payable under these procurement contracts exceed the market price for electricity, the Green Costs Adjustment passes through the amount of such differences as part of the monthly charge to electricity consumers. Such amount then becomes available to IESO to meet its obligations under the~~ **[NTD: This statement is not correct in respect of all IESO procurement contracts.]** It has been determined that the useful lives of many of the assets ~~encouraged by~~**developed under** the Green Generation Initiative will be ~~well~~ in excess of the respective terms of ~~the related~~**their respective** procurement contracts~~, and in many cases may extend over more than one generation of electricity consumers~~.

Since the benefits to past, present and future electricity consumers from the Green Generation Initiative will not necessarily coincide with the costs currently attributed through the Green Costs Adjustment, based on the respective ~~durations~~**terms** of the **applicable** procurement contracts, it has been determined that the rate at which the costs associated with the Green Generation Initiative should be passed through to ~~Retail~~**Regulated** Consumers (as defined in Article 2) should be more closely aligned with the benefits that such ~~Retail~~**Regulated** Consumers have derived and are expected to derive from the Green Generation Initiative over time. This realignment will be based on **general** principles and parameters that establish a reasonable basis for measuring and allocating the relative costs and benefits of the Green Generation Initiative equitably across present and future ~~Retail~~**Regulated** Consumers (the "Fair Allocation whose records shall be determinative for the purposes of this Act except to the extent of a manifest calculation error.

"Additional Funding Charges" means, for a Reference Period ~~in respect of an Absolute Assignee~~, the fees, charges, expenses, costs, indemnities, reimbursements and other amounts (including any applicable tax amounts) that are or become payable by or on behalf of the Absolute Assignee during the Reference Period and that were incurred or committed to directly or indirectly by the Absolute Assignee in connection with the incurrence of Funding Obligations under the Financing Plan (whether at the time of such incurrence or over the term of the Funding Obligation and whether directly or indirectly), including ~~(without duplication and without limitation): (a) any payment required under an ancillary agreement entered into by, or by the Financial Services Agent on behalf of, the Absolute Assignee under the Financing Plan; (b) any federal, provincial or local taxes, payments in lieu of taxes, franchise fees or license fees imposed on the Absolute Assignee or incurred by on behalf of the Absolute Assignee under any obligation to pay tax gross-up amounts to counterparties under Funding Obligations; (c) any amounts payable to the Financial Services Agent, including amounts payable to its advisors and outside counsel; (d) any amounts incurred to prepare, confirm, amend and implement the Financing Plan; (e) any amounts payable to any Alternative Collection Agent or Alternative Servicer, including amounts payable to each's advisors and outside counsel; (f) any amounts incurred to make the calculations, determinations or confirmations to be made by or on behalf of the Absolute Assignee; (g) any servicing fees and expenses; (h) any trustee fees and expenses; (i) any legal fees, expenses and disbursements; (j) any accounting fees and expenses; (k) any administrative fees and expenses; (l) any manager or director fees of a Financing Entity; (m) any registration fees and expenses; (n) any placement fees, underwriting fees, fees and related issuing expenses; (o) any rating agency fees; and (p) any other related fees, charges, expenses, costs, indemnities, reimbursements and other amounts that are approved in good faith by the Financial Services Agent for recovery and payment under the Financing Plan~~**without limitation such amounts as may be prescribed**.

(called back deleted stuff.)

~~"Allocation Factor" means, in respect of a Retail Consumer for a Reference Period, the number (expressed as a percentage) determined in respect of the Retail Consumer by the OEB based on the application of<~~ ~~*the Attribution Methodology*~~ ~~>in respect of the Reference Period.[1]~~

(deleted … because … IT … of … finance amt – will come up in dollar per kw.)

~~"Alternative Collection Agent" means a person appointed under Section 5(11) and in compliance with the requirements set out in Schedule 2 to assume the collection activities and activities of any Electricity Distributor or IESO under Article 5, as agent for and on behalf of the Regulatory Asset Owners.~~ **[NTD: See section 5(11). Remove this concept globally.]**

(Stikeman … to clarify)

"Alternative Servicer" means a person appointed under Section 4(8) to assume the obligations of the Servicer under Article 4, as agent for and on behalf of the Regulatory Asset Owners. **[NTD: We see this, in effect, as the same thing as the IESO Successor; that is, replacement of the master Servicer.]**

~~[1] Confirm that this will be based on forecast volumes of demand (like RPP). To the extent amounts do not get recovered due to differences between forecast and actual, those may be identified and caught by the True-Up.~~

"Electricity Distributor" means~~, in respect of a Service Area, the~~ **a** rate regulated distributor licensed under Part V of the *Ontario Energy Board Act, ~~1998 in respect of such Service Area,~~* ***1998,*** together with and its successors.

"Electricity Distributor Remittances" means, for an Electricity Distributor on a Remittance Date, all Transition Charge Collections received or deemed to be received **[NTD: estimated to be received? will each Electricity Distributor know?]** by the Electricity Distributor prior to the Remittance Date and that have not otherwise been remitted to ~~IESO~~**Servicer** or if applicable the Alternative Collection Agent in accordance with Section 5(3), including the proceeds of any enforcement action undertaken by the Electricity Distributor or if applicable the Alternative Collection Agent to recover payment of Transition Charges in accordance with Article 5.

Agreed that only invoice for transit charges
- use existing charges/phases
- concept of what happens if shortfall.

"Electricity Invoice" means an invoice issued by ~~any of a~~**an** Electricity Distributor (or in its stead, by an Alternative ~~Servicer~~**Collection Agent**), by the Servicer or by a Retailer, in each case to a ~~Retail~~**Regulated** Consumer that is served by the Electricity Distributor's distribution system in respect of electricity charges, including the cost of electricity, delivery and regulatory charges and related services and amounts incurred, assessed or charged in respect of connectivity to ~~a distribution network in the~~**such** Electricity Distributor's ~~designated Service Area~~**distribution system** and in respect of applicable Transition Charges to be charged to the ~~Retail~~**Regulated** Consumer under this Act. **[NTD: The Alternative Servicer should only invoice for Transition Charges, not the entire invoice. Also, to avoid confusion, we suggest using the word "invoice" in reference to what the IESO sends out to distributors, and "bills" in reference to what distributors send out to consumers.]**

"Estimate" means (a) in relation to costs, expenses or payments in respect of Funding Obligations or any Finance Amount for a Reference Period, the estimated amount of such costs, expenses or payments determined by the Financial Services ~~Agent~~**Manager**; and (b) in relation to an assessment of the benefits of the Green Generation Initiative to ~~any Retail Consumer Group~~**Regulated Consumers**, the estimated value (in current dollars) of such benefits determined by the Delegate, in each case having regard to the applicable principles and parameters set out in Schedule 1, which estimated amounts shall be determinative as the applicable estimate for the purposes of this Act except to the extent of a manifest calculation error.

"Estimated Future Green Transition Benefits" means, in respect of a Measurement Date, the Estimate set forth in the Fair Allocation Plan prepared in accordance with Article 7 of the aggregate value (measured in current dollars) of the benefits that are expected to accrue to ~~Retail~~**Regulated** Consumers from the establishment and implementation of the Green Generation Initiative during the period from the Measurement Date to the Program-End Date.

"Estimated Past Green Transition Benefits" means, in respect of a Measurement Date, the Estimate set forth in the Fair Allocation Plan prepared in accordance with Article 7 of the aggregate value (measured in current dollars) of the benefits that have accrued to ~~Retail~~**Regulated** Consumers from the establishment and implementation of the Green Generation Initiative up to and including the Measurement Date.

"Fair Allocation Plan" has the meaning given in Article 1.

Financial Services ~~Agent~~**Manager** in ~~compliance~~**accordance** with Article 9 from time to time.

Presented by Reg Conf

~~"Funding Costs" means, for a Reference Period in respect of an Absolute Assignee, the amount by which (a) the aggregate of all interest< *and other periodic finance charges accruing due and becoming payable or paid by or on behalf of the Absolute Assignee during the Reference Period in respect of its Funding Obligations, including* >any standby commitment fees or charges paid to any lender, credit enhancement fees or charges paid to any credit enhancer, liquidity fees or charges paid to any liquidity provider, amounts (including any termination payments) paid under derivatives and any deposit amount made or 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 its Funding Obligations, exceeds (b) the aggregate of all amounts received by or on behalf of the Absolute Assignee during the Reference Period in respect of a Funding Obligation, including from any reimbursement of standby commitment fees or charges paid by a lender, any reimbursement of credit enhancement fees or charges paid by any credit enhancer, any reimbursement of liquidity fees or charges paid by any liquidity provider, any amounts (including any termination payments) paid to the Absolute Assignee under derivatives and any Finance Reserve Withdrawal made or required to be made from a debt service reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the payment of the Funding Costs payable in respect of a Funding Obligation for the Reference Period.~~

Stace 2 pres by Reg - Purpose of doc

"Funding Obligation" means, in respect of an Absolute Assignee, each payment obligation (including**, without limitation,** each obligation to pay: principal, interest, premiums and other financing charge payments; pass-through payments; payment obligations arising under or in respect of derivatives; payment obligations owing to service providers, Financial Services ~~Agents~~**Managers**, finance entity intermediaries, capital markets intermediaries, advisors, lenders, credit enhancement providers, liquidity providers, disbursement counterparties, regulatory agencies and rating agencies; and all Additional Funding Charges**)** incurred by or on behalf of the Absolute Assignee under the Financing Plan, including any Refinancing of another such payment obligation incurred by or on behalf of such Absolute Assignee.

"Future Fair Share of Green Transition Benefits" means, in respect of a Measurement Date, the sum of (a) the Over-Assessed Amount; and (b) the Estimated Future Green Transition Benefits, in each case as of the Measurement Date.

~~"Generator" means a generator of electricity that is subject to the *Electricity Act, 1998*.~~

"Global Adjustment" has the meaning given in Article 1.

"Green Costs Adjustment" has the meaning given in Article 1.

"Green Generation Initiative" has the meaning given in Article 1.

"IESO" means the Independent Electricity System Operator created pursuant to Part II of the *Electricity Act, 1998*.

Collection Agent to recover payment of amounts payable by Electricity Distributors to IESO in accordance with Article 5.

~~"IESO Retained Interest" means IESO's right, title and ownership interest (if any) in, to and under the Regulatory Asset, which shall exclude each Investment Interest.~~

~~"IESO Retained Interest Amount" means, on a day, (a) the sum of all IESO Funding Shortfalls incurred prior to the day, plus (b) the sum of all IESO Funding Costs incurred prior to the day in accordance with Section 8(4), minus (c) the net proceeds received by IESO from or on behalf of each Absolute Assignee as consideration for the Disposition of each Investment Interest paid to IESO by or on behalf of such Absolute Assignee prior to the day, and minus (d) the IESO Recoveries received by IESO prior to the day.~~

"IESO Successor" means the entity appointed by the Province to succeed to the rights and obligations of IESO as the entity responsible for managing the Province's electricity system.

"Investment Interest" means an ownership interest in, to or under the Regulatory Asset that is acquired by an Absolute Assignee pursuant to a Disposition~~, which ownership interest may include (without limitation) ownership of a specified portion on a divided basis of the assets comprising the Regulatory Asset and ownership of an undivided ownership interest in the Regulatory Asset, in each case as may be described in the applicable Disposition Document~~.

"Investment Remittance" means, for a month, the lesser of (a) the aggregate amount of all IESO Remittances for the month, and (b) the sum of the ~~Finance Amounts~~**Funding Obligations** due and payable by all Absolute Assignees in respect of the month.

~~"Maximum IESO Recovery" means, for a month, the amount (if any) by which (a) the IESO Remittances for the month, exceed (b) the sum of all Finance Amounts that are due and payable by Absolute Assignees in respect of the month.~~

~~"Maximum Transition Charge Amount" means, for a Reference Period, (a) the aggregate amount of Future Fair Share of Green Transition Benefits that are allocable to the applicable Retail Consumer Group in accordance with the Fair Allocation Plan, divided by (b) the applicable Reference Period Length.~~

"Measurement Date" means [Insert relevant date around the Legislation Implementation Date] and any other date specified as such under the Fair Allocation Plan.

"Net Funding Costs" means, for a Reference Period in respect of a Financing Entity, the amount by which (a) the aggregate of all interest, scheduled principal> *and other periodic finance charges accruing due and becoming payable or paid by or on behalf of the Absolute Assignee during the Reference Period in respect of its Funding Obligations, including* <**such amounts as may be prescribed, exceeds (b) the aggregate of all amounts received by or on behalf of the Absolute Assignee during the Reference Period in respect of the Funding Obligations referred to in (a), including such amounts as may be prescribed.**

[NTD: There are a number of issues with this definition. First, the word "Retail" is a source of confusion as it implies customers of licensed retailers. Really, the purpose of the term is to define the group of consumers that are eligible to receive the benefit of the Fair Hydro program and who will bear the cost of the program over the long term. We have proposed "Regulated Consumer" but you could also use the term "Eligible Consumer" or "Fair Hydro Eligible Consumer" and for purposes of the legislation to say that it is a member of a class of consumers prescribed by the regulations for purposes of the relevant section of the legislation. The regulation would then describe who is in the class. Second, it may not be appropriate to rely on the class of consumers prescribed for the purposes of s. 79.16 or under the OREC Act. Section 79.16 is the section that defines the class of RPP consumers. We understand that the "Fair Hydro Eligible Consumers" are not an identical class to that which is eligible for the RPP or for> ***the Ontario Rebate for Electricity Consumers***<. For example, we have heard that Fair Hydro Eligible Consumers will (a) exclude consumers served by independent power authorities (certain remote communities not served by Hydro One Remotes), and (b) include consumers served by licensed unit sub-metering providers, licensed retailers and certain consumers served directly by the IESO (which may or may not be captured by the classes under 79.16 or OREC). Third, it is not clear why consumers with contracts with retailers who use retailer consolidated billing are removed from the first part of the definition but then added back into the second part of the definition. Fourth, Retailers do not necessarily have physical electricity assets that would be connected to the grid. Some just sell or offer contracts for electricity. As such, the first few lines after (b) are problematic. Fifth, the phrase "purchase electric generation services from a provider of electric generation services other than the owner of the Province's transmission and distribution system assets" does not make sense. A consumer does not purchase generation services from a transmitter or distributor. Rather, a consumer receives distribution services from a distributor. In addition to charging for its distribution services, the distributor also charges the associated transmission costs and commodity costs associated with the volumes delivered. Those commodity costs are the price of the electricity itself and are almost entirely made up of the amounts determined under the global adjustment. Sixth, the phrase ">***whether or not the transmission and distribution system assets continue to be owned or operated by Electricity Distributors or operated by IESO***<" does not make sense. Transmission assets are owned and operated by transmitters. Distribution assets are owned and operated by distributors. The IESO does not own but does administer and direct the operation of the transmission system.]

Steve, (1) freeze up at wrong end. (2) applied 2 true up pay.

"Regulatory Asset" means the property rights and interests described in Section 6(1), which collectively is comprised of ~~the IESO Retained Interest and~~ each Investment Interest.

"Regulatory Asset Account" means (a) for an Electricity Distributor, any bank account into which the Electricity Distributor deposits or receives Transition Charge Collections; and (b) for the Servicer, any bank account into which ~~IESO~~Servicer deposits or receives Transition Charges~~, Electricity Distributor Remittances or IESO Remittances; and (c) if applicable, for the Alternative Collection Agent, any bank account into which~~

~~system assets and~~ ~~<*whether or not the transmission and distribution system assets continue to be owned or operated by Electricity Distributors or operated by IESO*>.~~

~~"Retail Consumer Group" means, in relation to a Reference Period, the Retail Consumers who receive Electricity Invoices during the Reference Period.~~

"Retailer" means a person who is licensed under Part V of the *Ontario Energy Board Act, 1998* to retail electricity.

"Retailer Consolidated Billing" has the same meaning as in the *Retail Settlement Code* issued by the Ontario Energy Board.

~~"Service Area" means, in respect of an Electricity Distributor, the geographic area or region in which it is licensed to distribute electricity in accordance with the *Electricity Act, 1998*.~~

"Servicer" means IESO or IESO Successor, as agent for and on behalf of the Regulatory Asset Owners, for the purposes set forth in Article 4.

"Settlement Date" means the [last Business Day of any month].

OEB what does this mean

"Transition Charge" means, ~~for a Retail~~**the amount recoverable from a Regulated** Consumer in respect of a Reference Period, ~~(a) the Period Transition Charge, (b) multiplied by its Allocation Factor in respect of the Reference Period, divided by (c) the applicable Reference Period Length.~~ **being the Period Finance Charge as allocated to such Regulated Consumer in accordance with Article 4(3) on a monthly basis. [NTD: This needs to be grossed up to account for variability associated with expected uncollectables and remittance delays.] [NTD: Do not need to create parallel process. The definition should be linked to the OEB process for determining the volumetric rate as part of the RPP process (see s. 4(2)). The OEB will determine volumetric rate based on forecast consumption, number of consumers, etc. to recover the Period Finance Charges.]**

(IESO account for bad debt collect

Large - no concept of bad debt collect

"Transition Charge Collection" means any amount received **[or deemed by this Act to have been received] by the Absolute Assignees** upon the collection of a Transition Charge paid by or on behalf of a ~~Retail~~**Regulated** Consumer, including any proceeds arising from the exercise and enforcement of any related rights and interests under or in respect of the Regulatory Asset.

"True-Up Amount" means, in respect of a Reference Period, the amount (which may be a negative amount) calculated by the Financial Services ~~Agent~~**Manager** equal to (a) the >*Actual Finance Amount for such related True-Up Period*<**, minus (b) the** Estimate of the Finance Amount for the related True-Up Period, ~~minus (b) the~~ ~~<*Actual Finance Amount for such related True-Up Period*>~~, plus (c) the Collected Amount Adjustment for such related True-Up Period. **[NTD: need to discuss how this will work for our true-up. What about prior period shortages? An example of how this works needs to be provided.]**

Don't need 30 day adjust (from US examples) adjustments based on modifications to such Funding Obligations made in compliance with the Financing Plan or as a result of amendments to the Financing Plan made in accordance with Section 9(3)) are deemed to be irrevocable, final and effective without any further action, except to the extent of manifest calculation error. For greater certainty, a Transition Charge may include Finance Amounts for a Reference Period regardless of whether~~ or not~~ the payment of such Finance Amounts are inconsistent with the Fair Allocation Plan applicable at the time such payments are due and payable, and regardless of whether~~ or not~~ the related Funding Obligation was properly incurred under the Financing Plan. In no case shall a Funding Obligation incurred under the Financing Plan be affected by a subsequent amendment to the Fair Allocation Plan.

trans chge came into effect on measmt date

(6) **True-Up of Transition Charges? – [NTD: Include specifics regarding the true-up of the charges and the process for the true-up, but move to Regulations. The True-Up Mechanism should require the Transition Charges to be reviewed and adjusted semi-annually to ensure the expected recovery of amounts sufficient to timely provide all payments in respect of Funding Obligations, provided that in some cases it may need to be adjusted more frequently than semi-annually, e.g., as part of a refinancing.]**

(7) **Commencement of Invoicing and Collection of Transition Charges – [NTD: Please confirm that as drafted, Transition Charges will begin on the Measurement Date.]**

Steve [illegible] didn't that soon

Article 4 – Invoicing of Transition Charges **[NTD: Move Article 4 sections (1) to (4) to Regulations. Also note, these sections remain subject to further due diligence by the Dealers.]**

(1) Inclusion of Transition Charges in Electricity Invoices – Each Electricity Distributor and if applicable any Alternative Servicer shall, as an agent of the Regulatory Asset Owners, specify the Transition Charge to be charged to a ~~Retail~~Regulated Consumer pursuant to Section 4(4) in respect of a related Reference Period in each Electricity Invoice issued by the Electricity Distributor or if applicable by the Alternative Servicer to the ~~Retail~~Regulated Consumer in respect of such Reference Period. Upon the inclusion of a Transition Charge in an Electricity Invoice, the obligation to pay such amount shall be binding on the applicable ~~Retail Consumer.~~Regulated Consumer. **[NTD: Must capture bills issued to eligible consumers served by unit sub-metering providers, retailers and the IESO – not just distributors][NTD: This provision also needs to address the inclusion of Transition Charges in invoices from the IESO to the LDC, consistent with the current process of how the IESO bills LDCs.]**

– 25th transit charge to be invoiced separately

(2) Calculation of the Period ~~Transition~~Finance Charge – Not later than [35] days prior to the first day of a Reference Period, each Absolute Assignee (or the Financial Services ~~Agent~~Manager on its behalf) shall provide the OEB with written notice of each Estimate of a Finance Amount payable by it or on its behalf in respect of the Reference Period. ~~[35] days prior to the first day of a Reference Period, IESO or Successor IESO if applicable shall specify the IESO Retained Interest Amount and any IESO Financing Costs that are due and payable and remain unpaid on such day.~~ Not later than one month prior to the first day of a Reference Period, ~~the OEB~~**each Absolute Assignee (or the Financial Services Manager on its behalf)** shall calculate the Period ~~Transition~~Finance Charge applicable to the Reference Period ~~based on the calculations and information set forth in such written notices received from the Absolute Assignees~~

CC not interested to Δ these lines

OEB cannot get 2 period want to consider docs.

OEB cannot RPP have 60 days

(9) Absolute Assignees have Standing – The Absolute Assignees, acting together in accordance with the Collective Action Agreement, may bring actions against any Electricity Distributor, IESO, the Servicer, Alternative Servicer or any other person who may be authorized to issue Electricity Invoices to ~~Retail~~Regulated Consumers for a failure to impose, attribute, charge, bill or invoice Transition Charges or to otherwise comply with this Act. Any court of the Province shall have jurisdiction over any actions brought before it by the Absolute Assignees in relation to any such failure~~.~~ and may make any interim or final order it thinks fit in this regard. **[NTD: We would like to see the sections on "Standing" to bring an action to remain in the legislation (as opposed to being moved to the regulations as we believe we previously suggested) as we see those provisions as part of ensuring a rigorous enforcement scheme for the Financing Entity (and so something that should be difficult for the Province to change going forward).]**

Have keep in Statute.

Steve agreed.

(10) No Set-Off or Reduction – No Servicer or Electricity Distributor may set off or reduce (by counterclaim, defence or otherwise) the amount payable by it pursuant to this Article 4.

(11) Regulations – Regulations may be enacted for the purpose of specifying further rights, powers, privileges, duties and obligations that shall apply to IESO, any Electricity Distributor or any Alternative Servicer to ensure that Transition Charges are properly charged to ~~Retail~~Regulated Consumers and specified as such in Electricity Invoices.

Article 5 – Collections and Remittances [NTD: Move Article 5 sections (3), (6), (9), (12), (13) and (14) to Regulations.] IESO contradiction

(1) **Duty to Collect as Agent** – Electricity Distributors or if applicable any Alternative Collection Agent shall, as an agent of the ~~Regulatory Asset Owners, undertake [diligent][reasonable][10] efforts to~~Servicer, collect amounts owing by ~~Retail~~Regulated Consumers in respect of Transition Charges charged to such ~~Retail~~Regulated Consumers in Electricity Invoices issued by the Electricity Distributor or if applicable such Alternative Collection Agent~~.~~ all in accordance with the Regulations. **[NTD: The obligation to collect and remit the Transition Charge should be included as a deemed condition of license for electricity distributors (and retailers and unit sub-metering providers).]**

Steve cover amounts electricity ...

(2) **Segregation of Transition Charge Collections** – An Electricity Distributor or if applicable any Alternative Collection Agent shall promptly segregate Transition Charge Collections from other payments received by it from ~~Retail~~Regulated Consumers and deposit such Transition Charge Collections into its Regulatory Asset Account.[~~11~~8] **[NTD: Determine if this is critical for rating and markets or if segregation can occur in the hands of the IESO]** Prior to and following a deposit of Transition Charge Collections having been made into its Regulatory Asset Account, the Electricity Distributor or if applicable any Alternative Collection Agent shall hold such amounts in trust for the Regulatory Asset Owners or its Pledgee.

Steve footnote deleted?

Steve - invoice us bill

(3) **Electricity Distributor Remittances** – On each applicable Remittance Date, an Electricity Distributor shall remit all **amounts invoiced by the IESO on account of the**

~~[10] Mirror collection "standard of care" under applicable legislation.~~

[~~11~~8] Consider trying to attach to existing LDC credit enhancements and provide parallel coverage for customer losses.

~~applicable service area, including all consumers~~ connected to ~~the electricity~~**such person's** distribution system assets~~ and taking electric delivery service located within such service area~~; (b) allocate partial payments by ~~Retail~~**Regulated** Consumers as provided in this Act; (c) exercise all enforcement rights of the Absolute Assignees for the benefit of an Absolute Assignee; and (d) remit any Transition Charge Collections to the Absolute Assignees or Pledgees, as applicable, each in accordance with its Investment Interest.**[NTD: Such acquisition of a distribution system would require the person to be an electricity distributor; consider deleting since this is covered off by Section 5(7).]**

(10) **Absolute Assignees have Standing** – The Absolute Assignees, acting together in accordance with the Collective Action Agreement, may bring actions against any Electricity Distributor, ~~IESO~~**Servicer**, the Alternative Collection Agent, any owner of electricity distribution system assets in the Province or any other person who may be authorized to collect electricity distribution and use charges from ~~Retail~~**Regulated** Consumers for a failure to collect Transition Charges, remit or collect Electricity Distributor Remittances or remit IESO Remittances, as and to the extent applicable under Article ~~5.~~**5, or to otherwise comply with this Act.** Any court of the Province shall have jurisdiction over any actions brought before it by the Absolute Assignees in relation to any such failure**and may make any interim or final order it thinks fit in this regard**.

Steve

Steve yes 801 direct 15 [illegible] 25 Strong 25 possible

(11) ~~**Appointment of an Alternative Collection Agent** – If a Replacement Event occurs in respect of any Electricity Distributor or IESO, the Absolute Assignees shall, in accordance with the Collective Rights Agreement, be permitted, by an instrument in writing, to appoint an Alternative Collection Agent to perform some or all of the collection, segregation and remittance obligations otherwise required to be undertaken by such Electricity Distributor or IESO, as applicable, under Article 5, as and to the extent specified in such appointment. Upon acceptance of such appointment, the Alternative Collection Agent shall become obligated to perform such assumed obligations in replacement of such Electricity Distributor or IESO, as applicable. Any Electricity Distributor or IESO, as applicable, that is replaced under this Section 5(11) shall promptly transfer all rights, powers, privileges and property interests in its possession or within its control in, to and over the Regulatory Asset, including its Regulatory Asset Account, to the Alternative Collection Agent and shall take such further actions, including the execution of instruments, necessary to give full and final effect to such transfer and to permit the Alternative Collection Agent to enforce the Regulatory Asset on behalf of the Absolute Assignees.~~**Not Used. [NTD: The Servicer should manage this process.]**

(12) **No Set-off, etc.** - The Regulatory Asset, including rights in Transition Charges, Transition Charge Collections, and the interests of a Regulatory Asset Owner, an Absolute Assignee and a Pledgee therein, may not be setoff or reduced (including by counterclaim, surcharge or defense) by any ~~Retail~~**Regulated** Consumer, any Electricity Distributor, ~~IESO~~**Servicer**, Alternative Collection Agent or any owner of distribution system assets in the Province or any other person or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of any Electricity Distributor,

a. the right of ~~IESO (i)~~**a Regulatory Asset Owner** to record its ~~IESO Retained Interest in its accounts in accordance with Section 8(1), having a stated amount from time to time equal to the IESO Retained Interest Amount; and (ii) to receive IESO Recoveries from time to time in accordance with Section 5(6)(b)~~**portion of the Regulatory Asset in its accounts**;

b. the right to impose, bill, invoice, collect and receive Transition Charges from ~~Retail~~**Regulated** Consumers, including the right to determine the amount of Transition Charges in accordance with this Act;

c. the right to enforce the obligations and indebtedness of each ~~Retail~~**Regulated** Consumer to pay the Transition Charges charged to the ~~Retail~~**Regulated** Consumer from time to time in accordance with Article 3, together with all related late payment fees or interest charges arising in respect thereof under the related Electricity Invoices; **[NTD: Do we really want and need the ability for the Financing Entities to chase after individual consumers?] [NTD: This should be the right to provide notices to the OEB of the amounts required for recovery, which the OEB would then be required to accept for purposes of determining the amount of Transition Charges to be charged to consumers]**

in addit to having rights to enforce - right to enforce Art 5. collect. procedure.

Ignore

d. the right to enforce the duties and obligations of each Electricity Distributor and if applicable the Alternative Servicer to impose, attribute, charge, bill and invoice the Transition Charges in accordance with Article 4;

e. the right to enforce the duties and obligations of each Electricity Distributor and if applicable the Alternative Collection Agent to collect, receive and remit amounts received by it in respect of Transition Charges as Electricity Distributor Remittances to or to the account of ~~IESO~~**Servicer** or if applicable the Alternative Collection Agent in accordance with Article 5, including all collections and the proceeds of any enforcement action undertaken by the Electricity Distributor or if applicable the Alternative Collection Agent to recover payment of Transition Charges in accordance with Article 5;

f. the right to enforce the duties and obligations of ~~IESO~~**Servicer** and if applicable the Alternative Collection Agent to collect and receive Electricity Distributor Remittances and to remit IESO Remittances to or to the accounts of the Regulatory Asset Owners, each with respect to its respective interest in the Regulatory Asset, in each case in accordance with Article 5, including all collections and the proceeds of any enforcement action undertaken by it to recover payment of Electricity Distributor Remittances in accordance with Article 5;

g. the right to receive and collect all Transition Charge Collections, all Electricity Distributor Remittances and all IESO Remittances in accordance with Article 5;

h. all rights and entitlements under each Regulatory Asset Account and all amounts on deposit in any such Regulatory Asset Account;

i. all Related Rights; and

~~requirement applicable to a Pledge that may arise by operation of any applicable law of the Province, a~~A Pledge by an Absolute Assignee may be made to secure any ~~related~~ Funding Obligation and when made shall be valid and enforceable in accordance with its terms and shall be effective to confer upon the Pledgee a valid security interest in, to and in respect of the related Investment Interest in accordance with the terms of the Pledge. ~~Other than as required by the Financing Plan, no~~No consent of, or notice to, any person shall be required to give effect to a Pledge made to secure any Funding Obligation.

(5) **Perfection and Priority of Pledges** - For purposes of the *Personal Property Security Act* (the "PPSA"), the Regulatory Asset shall be intangible personal property and any Pledge made by an Absolute Assignee in respect of a Funding Obligation **shall, subject to the terms thereof, give rise to a security interest of which the PPSA applies, and** may be perfected by filing a financing statement under the PPSA on that basis. All proceeds of a related Investment Interest that are subject to such a Pledge that are received by the Absolute Assignee shall immediately be subject to the such Pledge, and the security interest in such proceeds shall be perfected pursuant to the PPSA.[~~17~~14] A Pledge perfected under the PPSA shall be a continuously perfected security interest and shall have priority over any other lien or security interest, created by operation of law or otherwise, that may attach to the property rights and interests in the Investment Interest subject to the Pledge unless the Pledgee has otherwise agreed in writing. ~~Subject to the terms of the Collective Action Agreement, a~~A Pledgee shall have a perfected security interest in a related Investment Interest, including the Absolute Assignee's rights and interests in and to Transition Charge Collections or other related proceeds in respect of the Investment Interest and that are deposited in any Regulatory Asset Account or other account of any Electricity Distributor, IESO, Alternative Collection Agent or other person who may have commingled such Transition Charge Collections or such other proceeds with other funds. All provisions of the PPSA shall apply to the Regulatory Asset on the basis that it is intangible personal property, except to the extent otherwise provided in this Section 6(5).

delete

(6) **Enforcement of Property Rights** – The rights of any Regulatory Asset Owner to collect and enforce its rights and interests in, to or in respect of the Regulatory Asset shall be exercised in the manner set forth in Article 5.

Steve - happy to add pledge..

(7) **Owners of a Specified Portion of the Regulatory Asset** – A Regulatory Asset Owner may effect a Disposition to an Absolute Assignee of a specified portion of its rights and interests in the Regulatory Asset, including by way of a Disposition of a divided or an undivided interest therein as specified in a related Disposition Document~~, in each case under the Financing Plan~~. In no circumstance may the specified portions of the rights and interests in the Regulatory Asset owned by all Regulatory Asset Owners be greater than all of the rights and interests that comprise the Regulatory Asset in the aggregate.

whether [illegible] pledge right to access - right of pledgee as well as regulatory asset

(8) **Collective Action Required** – If a Regulatory Asset Owner's rights and interests in the Regulatory Asset comprises less than the entire property right and interest constituted by the Regulatory Asset, such Regulatory Asset Owner shall only enforce such right and interest on a collective and coordinated basis with each other Regulatory Asset Owner in accordance with the Collective Rights Agreement. **[NTD: Move to Regulations.]**

~~17~~14 Consider whether to simply leave this and have a financing statement be filed under the PPSA. This would normalize the security interest and reduce any adverse suggestion that security would not otherwise arise.

MF - may want short term financing asset & long term asset

~~4.~~ ~~The share of Future Fair Share of Green Transition Benefits to be allocated to a Retail Consumer Group and any future Retail Consumer Group at a particular time should not exceed the Estimated Future Green Transition Benefits, measured in respect of the Reference Periods following such particular time and to the Program End Date.~~

~~5.~~ ~~No future Retail Consumer Group should be allocated an unreasonably disproportionate share of Estimated Future Green Transition Benefits. Except~~<-*~~in exceptional circumstances~~*>~~ or in the case of any reallocation of an Over-Assessed Amount as contemplated in 7, below, the Future Fair Share of Green Transition Benefits to be allocated under a Fair Allocation Plan to any future Retail Consumer Group should have regard to~~ *~~[Insert formula if a year-over-year maximum amount is determined to be appropriate]~~*~~.~~

3. ~~6. The time value of money should be reflected in the Fair Allocation Plan, in order to equate the relative values of the nominal allocations of Future Fair Share of Green Transition Benefits, calculated in current dollars, to future Retail Consumer Groups over time.~~>*The Fair Allocation Plan should specify the Reference Periods for the purpose of* <>*allocating Future Fair Share of Green Transition Benefits among* <**Regulated Consumers**> *on a relative basis over time.* <

~~7.~~ ~~To the extent there has been an Over-Assessed Amount, the Fair Allocation Plan may determine that an adjustment should fairly be made to rebate Retail Consumers for such an amount, by reducing the costs otherwise attributable under the Act to such Retail Consumers. The relative costs of the Green Generation Initiative are reflected under the Act by the attribution of Transition Charges to such Consumer Groups, based on the Financing Plan seeking to track the allocations of benefits under the Fair Allocation Plan. Accordingly, the Maximum Transition Charge Amount determined for one or more Retail Consumer Groups having regard to the Fair Allocation Plan otherwise applicable may be appropriately reduced to recognize the effect of the Over-Assessed Amount. In such a case, a determination to reduce the Maximum Transition Charge Amount applicable for certain related Reference Periods should have regard to the principle that the corresponding rebate should be extended to benefit the Consumer Group or Consumer Groups in closest proximity to the Legislative Implementation Date.~~

(3) Attribution Methodology – The Fair Allocation Plan shall specify the Attribution Methodology for the purposes of allocating the Period ~~Transition~~**Finance** Charges across the ~~Retail~~**Regulated** Consumers~~ of a particular Retail Consumer Group~~. The Attribution Methodology shall result in an attribution of such Transition Charges that is considered by the Delegate to be equitable, and may have regard to such principles and parameters as may be further set forth in a Regulation~~.~~**; provided that**> *the Attribution Methodology* <**shall not be used to limit the recovery of Transition Charges. [NTD: Can the methodology be adjusted outside an amendment? If so, the rating agencies need to understand the limits of any adjustment.]**

~~IESO shall, in respect of a month, be entitled to receive from IESO Remittances on a related Settlement Date the amount (if any) available to IESO under Section 5(6)(b)~~.

Article 9 – The Financing Plan [NTD: Move all of Article 9 to Regulations other than 9(1).]

(1) Power to Prepare, Implement and Amend the Financing Plan – The Financial Services ~~Agent~~Manager shall be authorized to prepare, implement and amend a financing plan for the Financing Entities> *and propose the adoption*< of such financing plan as the Financing Plan~~. If the Financial Services Agent is unwilling or unable to prepare~~< ~~*and propose the adoption*~~> ~~of the Financing Plan, the Delegate may by written declaration designate one or more other persons who shall be authorized to prepare, implement and amend the Financing Plan~~ for the purposes of this Act. The Financial Services Manager shall have the right to withdraw its financing plan as the Financing Plan at any time if it determines that implementing the Financing Plan in such manner would not be in the best interests of a Financing Entity.

(2) ~~Terms~~Principles and ~~Conditions~~Parameters of the Financing Plan – The Financing Plan shall establish the basis for each Absolute Assignee's funding decisions~~. The Financing Plan shall have~~ having regard to the principles and parameters set forth in Schedule ~~3 and such other conditions and requirements as may be specified in a written declaration of the Delegate or in accordance with the Regulation.~~3.

(3) OEB Approval – Any Additional Funding Charge payable to ~~or for the benefit of~~ the Financial Services ~~Agent~~Manager in respect of services provided by the Financial Services Manager (other than third party costs) shall be subject to review and approval by the OEB.

(4) ~~OEB~~ Review of Financing Plan – The [OEB] ~~[shall]~~ undertake an annual review of the records maintained by the Financial Services ~~Agent~~Manager for the purpose of confirming that the Funding Obligations incurred and the Finance Amounts paid by or on behalf of the Absolute Assignees were incurred and paid, respectively, in material conformity with the Financing Plan. **[NTD: We would prefer that this be dealt with by an attestation prepared by an officer of the Financial Services Manager.]**

(5) Replacement of the ~~Administrative Agent~~Financial Services Manager – If the OEB identifies deficiencies or makes recommendations in its review under Section 9(4), the ~~Administrative Agent~~Financial Services Manager shall take reasonable measures to remedy such deficiencies if remediable, and shall in any event have regard to the recommendations of the OEB in relation to further actions undertaken by the Financial Services ~~Agent~~Manager under the Financing Plan. If the Financial Services ~~Agent~~Manager is unwilling or unable to reflect such recommendations in relation to such further actions, the Delegate may by written declaration designate one or more other persons who shall thereafter become the Financial Services~~.~~ Manager. Any replacement must comply with the restrictions and limitations specified in the documents evidencing the Funding Obligations.

(6) Obligation to Apply IESO Remittances – The Financial Services ~~Agent~~Manager shall ensure that amounts transferred to it under Article 5, as agent for and on behalf of the Absolute Assignees, or otherwise in respect of or as proceeds from an applicable Investment Interest shall only be applied or used to pay related Finance Amounts when

Article 11 – Undertaking of the ~~Lieutenant Governor in Council~~[21]Her Majesty in right of Ontario[18]

(1) No Action to limit, alter, or impair or terminate Transition Charges, the Regulatory Asset or Collections – ~~The [Lieutenant Governor in Council]~~**Her Majesty in right of Ontario** shall not in any way take or permit **(including by any agency or administrative body)** any action to reduce, impair, postpone or terminate the obligation of ~~Retail~~**Regulated** Consumers to pay Transition Charges or to impair the Regulatory Asset or the collection or recovery of Transition Charge Collections, Electricity Distributor Remittances or IESO Remittances, either directly or indirectly, including through the introduction of any bill or the passing of any legislation or regulation having such effect. The amount of Transition Charges determined under this Act shall not be subject in any way to reduction, impairment, postponement or termination as a result of any action taken or failure by ~~the Lieutenant Governor in Council~~**Her Majesty in right of Ontario (including by any agency or administrative body)**, including through the introduction of any bill or the passing of any legislation or regulation having such effect.

(2) Undertaking and Agreement – ~~The [Lieutenant Governor in Council]~~**Her Majesty in right of Ontario** shall not:

(a) in any way take or permit any action that limits, alters or impairs the value of any Investment Interest;

(b) except as required by the estimates and adjustments made in determining the True-up Amount, reduce, alter or impair Transition Charges that are imposed, billed, invoiced, collected and remitted for the benefit of the Absolute Assignees or any Pledgee from time to time;

(c) permit the amendment, amendment and restatement or termination of the Fair Allocation Plan if such amendment , amendment and restatement or termination would adversely affect the validity or enforceability of any Funding Obligation or the rights of an Absolute Assignee or Pledgee thereunder, **or would not otherwise comply with the restrictions and limitations specified in the documents evidencing the Funding Obligations,**

in each case including through the introduction of any bill or the passing of any legislation or regulation having such effect.

(3) Successor IESO – If IESO is restructured, dissolved or becomes insolvent or is otherwise incapable of performing its obligations under this Act, **an IESO** Successor ~~IESO~~ shall **immediately** be established **by Her Majesty in right of Ontario** to perform such obligations.

~~21~~18 Under consideration, including the dealers' request for a "servicer guarantee" and a "contractual guarantee" to address a "Change of Law" or if all or a portion of the legislation is *ultra vires*, requiring (at the lenders option), the Province to pay principal and interest on the outstanding debt until maturity or payout the entire debt including any make-wholes. ⊥
In the event of a market disruption that renders it impossible to refinance debt when required (or where financing of amounts required to service the debt is not available because of a market disruption where the Financing Entity was relying on such further issuance of debt until the recovery is set to begin to fund interest), either the Province must step in and payout the debt or there must be the right to recover the debt from ratepayers as it becomes due, notwithstanding the intended rate cut.

(1) **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 the Regulatory Asset, any Transition Charge or the Undertaking of the Province shall be the laws of the Province.

(2) **Conflict of law** – In the event of conflict between this Act and any other law of the Province regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any Disposition or Pledge, this Act shall govern to the extent of the conflict.

(3) **No further acts or approvals required** - Notwithstanding any provisions of any law of the Province to the contrary, no approvals, notices or authorizations other than those specified in this Act shall be required with respect to the actions to be taken in compliance with this Act, including under the Financing Plan or in relation to the establishment of the Fair Allocation Plan, and the transactions and contracts authorized in or contemplated by this Act or the Financing Plan, including the incurrence of any Funding Obligation, any Disposition, any Pledge or in the payment and performance of any attendant or incidental contract and any related expenses incurred to facilitate the preparation and implementation of the Financing Plan.

(4) **Effect of invalidity after the Incurrence of any Funding Obligation** - Effective on the date that a Funding Obligation is incurred 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 any person who is or may become obligated or have duties that arise under this Act and any such action shall remain in full force and effect.

(5) **Severability** - If any Article, Section, 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 Article, Section, paragraph or subparagraph of this act or its application or validity to any person, circumstance or transaction, including the irrevocability of Transition Charges, the validity of the Regulatory Asset, the incurrence of any Funding Obligation, any Disposition, any Pledge, or the collection and recovery of Transition Charge Collections. 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 Article, Section, paragraph or subparagraph of this Act held to be unconstitutional or invalid had not been included in this Act.

Schedule 2

Requirements Applicable to Alternative Invoicing Agent/ Alternative Collection Agent

[To be considered.]

the Ministry of Energy on the operation of the Financing Plan including, in particular, with respect to the amount and terms of the Funding Obligations incurred and the sufficiency of such Funding Obligations for the purpose of funding the estimated Funding Shortfalls in accordance with the Fair Allocation Plan.

~~a. whether the Absolute Assignees will require committed access to short term liquidity to cover estimated IESO Funding Shortfalls prior to incurring fixed term Funding Obligations, and the amount and repayment terms of any such required liquidity; provided that any Repayment required to be made under the terms of such short-term liquidity would not obligate an Absolute Assignee to repay an amount in relation to a Reference Period that would have the effect of the Financing Plan permitting incurrences of Funding Obligations payable in such Reference Period that would exceed the allocations of Future Fair Share of Green Transition Benefits to the applicable Reference Group under the Fair Allocation Plan;~~

~~b. the basis upon which the Financial Services Agent will select the term to maturity of any other Funding Obligations; provided that any Repayments required to be made under the terms of such Funding Obligations should not obligate an Absolute Assignee to repay an amount in relation to a Reference Period that would have the effect of the Financing Plan permitting incurrences of Funding Obligations payable in such Reference Period that would exceed the allocations of Future Fair Share of Green Transition Benefits to the applicable Reference Group under the Fair Allocation Plan;~~

~~c. the basis upon which the interest rates applicable to such Funding Obligations would be determined;~~

~~d. the reference capital or finance market in which such Funding Obligation would be incurred, including markets outside of Canada if considered by the Financial Services Agent to be appropriate in the circumstances;~~

~~e. the currency of payments under such Funding Obligations and, if the Funding Obligations are denominated in a currency other than Canadian dollars, the basis upon which the Financial Services Agent shall cause the applicable Absolute Assignee to enter into hedging transactions to mitigate currency risk, including acceptable minimum and maximum coverage levels, having regard to the availability of related derivatives having notional amounts corresponding to the repayment and maturity profile of such Funding Obligations;~~

~~f. the basis upon which the Financial Services Agent will select counterparties under any transaction to be entered into by an Absolute Assignee, including any paying agent, servicer, cash manager, liquidity provider, hedge counterparty, account bank, lender, note trustee, security trustee, paying agent, registrar/transfer agent, financial services agent, arranger or manager;~~

~~g. the basis upon which the Financial Services Agent will manage counterparty risk, including by providing for maximum counterparty exposure limits having regard~~